

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF COLUMBIA

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3 UNITED STATES OF AMERICA Criminal Case No. 10-739M-11

4 v.

5 DANIEL CHOI,

6 Defendant,

7 -----X

Washington, D.C.

Tuesday, August 30, 2011

8 2:15 P.M.

9 P.M. SESSION - DAY 2
10 TRANSCRIPT OF BENCH TRIAL
BEFORE THE HONORABLE JOHN M. FACCIOLA
11 UNITED STATES MAGISTRATE JUDGE

12 APPEARANCES:

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25 Proceedings recorded by mechanical stenography, transcript
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AFTERNOON SESSION

THE COURTROOM DEPUTY: Recalling criminal case year 2010-739 M, United States of America versus Daniel Choi.

Angela George for the government. Robert Feldman and Norman E. Kent for the defendant. This is a bench trial, day two.

THE COURT: Please proceed.

MS. GEORGE: Thank you, Your Honor.
(James F. Pietrangelo, witness for the defendant, previously sworn.)

CROSS EXAMINATION (resumed)

BY MS. GEORGE:

Q Mr. Pietrangelo, moving to November 15, 2010, do you recall that day and do you recall being at the White House sidewalk on November 15, 2010?

A Yes and no. Yes, Ma'am. I recall being at, in the White House area on Pennsylvania Avenue on the sidewalk for a while and then on Lafayette sidewalk, Lafayette Park sidewalk.
Yes, Ma'am.

Q Yes. And you told the Court on direct examination that prior to going to the White House on November 15, 2010, there was a meeting, correct?

A Yes, Ma'am.

Q Okay. And could you please tell us who was in that meeting?

1 A I'm sorry, what?

2 Q Who was at the meaning?

3 A Dan Choi, I was there, the 13, the 12 other individuals
4 arrested were there.

5 Q And you named some individuals in response to or in
6 conjunction with the Court asking you some questions about
7 the names. I think the Court asked you about Ian
8 Finkenbinder, do you recall that?

9 A Yes. He was one of the 12 other people besides Dan
10 arrested, yes.

11 Q Right. And before the Court asked you about
12 Mr. Finkenbinder, you were naming some other individuals,
13 correct?

14 A Yes.

15 Q And then you continued to name a few more after the Court
16 mentioned Mr. Finkenbinder; is that correct?

17 A No, I think the Court stated Mr. Finkenbinder was the
18 last one. I just repeated his name as I understood the
19 pronunciation.

20 THE COURT: I said it and you corrected me because
21 you already named him?

22 THE WITNESS: Yes. Yes, Your Honor.

23 BY MS. GEORGE:

24 Q And those individuals are the 13 individuals that you
25 were speaking of that was at the meeting before you arrived

1 to the White House area on November 15, 2010, correct?

2 A Yes, Ma'am.

3 Q And at that meeting, let me just ask you this: On April
4 20th, 2010, your handcuffs were taken from you at that point
5 in time; is that correct, by the police?

6 A Yes, Ma'am.

7 Q And at the meeting on November 15th, 2010, did you
8 receive more handcuffs at that meeting?

9 A I didn't receive any handcuffs.

10 MR. FELDMAN: We went over this already.

11 THE COURT: I don't recall.

12 MS. GEORGE: Not in reference to November 15th.

13 THE COURT: Did you get more handcuffs at this
14 meeting?

15 MR. FELDMAN: I'm sorry.

16 THE WITNESS: No, I did not, Your Honor. I was not
17 arrested on November 15th.

18 THE COURT: Did you see anyone distributing
19 handcuffs at the time meeting?

20 THE WITNESS: I saw people with handcuffs, yes, Your
21 Honor.

22 BY MS. GEORGE:

23 Q And who had handcuffs?

24 A Each one of the 13 individuals who were arrested.

25 Q And that would include Dan Choi?

1 A Yes.

2 Q And did Dan Choi also have a handcuff key with his
3 handcuffs?

4 MR. FELDMAN: If he knows.

5 THE WITNESS: I don't recall seeing a key, but I do
6 know that each box with the handcuff, set of handcuffs, had a
7 key with it.

8 BY MS. GEORGE:

9 Q And there were boxes there at that meeting with handcuffs
10 inside of them?

11 A Yes, there were.

12 Q And was there one person speaking to the group about what
13 was going to happen when everyone actually arrived to the
14 White House area and to the sidewalk?

15 A I think there was more than one person who talked about
16 that issue.

17 Q Did Dan Choi speak about that issue?

18 A I believe he did, yes.

19 Q Okay. And tell the Court what he said.

20 A He just described the process of handcuffing to the
21 fence.

22 Q And did Dan Choi also do further instruction about how to
23 use the handcuffs in this meeting?

24 A About how to use the handcuff and the key?

25 Q Yes.

1 A Well, I think that was part of the demonstration of
2 cuffing. In other words, they were practicing cuffing
3 themselves at the house, so they had to uncuff themselves at
4 some point because they couldn't walk to the White House
5 cuffed.

6 Q So what you're telling the Court is that you observed
7 those individuals, the 13 individuals, putting on handcuffs
8 and taking off handcuffs at that meeting?

9 A Yes. I can't recall seeing every single one doing it,
10 but we were all in a group together. So, I don't recall
11 looking at each of the 13 as they cuffed and then uncuffed.
12 I know each of the 13 had handcuffs at some point.

13 Q How long was the meeting?

14 A I don't recall exactly. It was, it was not a short
15 meeting, it was not five or 10 minutes, it was not 15
16 minutes. At least half an hour.

17 Q Was it longer than an hour?

18 A I don't recall. I don't recall.

19 Q And then at some point the meeting ended; is that
20 correct?

21 A Yes.

22 MR. FELDMAN: Objection. Meetings always end.

23 THE COURT: You've never been in some of the
24 meetings I've been in. You are obviously not from
25 Washington.

1 BY MS. GEORGE:

2 Q And then earlier during your direct, you stated that the
3 group broke off into two separate groups when you left the
4 meeting; isn't that correct?

5 A It was, we didn't go as one group. We did break up. I
6 don't, I think it was in either two groups or three groups, I
7 don't recall the exact number of groups. I was in one group
8 with several individuals.

9 Q And how many people were in your group?

10 A I believe it was four or five of us.

11 Q Okay. And before you -- and did you meet in an house or
12 in an apartment?

13 A We left from a private residence.

14 Q And when people arrived at that private residence, were
15 they already dressed? The people that were dressed in their
16 military uniforms, were they already dressed or did they get
17 dressed there?

18 A No, they got dressed there.

19 Q And I believe you indicated earlier that in the group
20 that you were in that left after the meeting, you were the
21 only one that had a military uniform on; is that correct?

22 A Yes, as far as I recall.

23 Q Okay. And you said there may have been one or two other
24 separate groups that left that residence as well; is that
25 correct?

1 A Yes.

2 Q And did one of those groups include the 13 individuals
3 that ended up on the White House fence ledge?

4 A Did you say one of those groups?

5 Q Yes.

6 A Well, I'm not clear. The other 13 people were -- the 13
7 people who got arrested were in the other groups as well as
8 with my group. Is that what you're asking?

9 Q So, some of the 13 people that were arrested may have
10 been in each of the remaining two groups that left the
11 residence?

12 MR. FELDMAN: Objection, form.

13 THE COURT: Overruled.

14 Do you understand?

15 THE WITNESS: Yes. Except that, again, I don't
16 recall exactly how many groups sat out. But those other
17 groups contained arrestees, the 13 arrestees, other than
18 those with me. Whether those groups contained other
19 individuals, I don't recall.

20 BY MS. GEORGE:

21 Q And then how much time passed from the time you left the
22 residence to when you arrived to the White House area?

23 A I'd say at least a half hour.

24 Q So approximately what time did you arrive?

25 A What time did we arrive at the White House?

1 Q What time did your group arrive at the White House area?

2 A I wasn't looking at my watch, but I think it was
3 somewhere between 1:30 and 2:00. I don't recall. That's
4 just a guess. Again, I wasn't looking at my watch. I don't
5 even have a watch. I didn't have watch. I had my cell phone
6 with me.

7 Q And please describe what you observed when you got to the
8 White House area?

9 MR. FELDMAN: Form, Judge. Just unclear and vague.

10 THE COURT: Well, you've shown us your path on that
11 day. This is after you see a woman talking and her handcuff?

12 THE WITNESS: Yes, Your Honor.

13 THE COURT: Take us from that point to where you
14 went and what you did.

15 THE WITNESS: May I demonstrate?

16 THE COURT: Sure.

17 THE WITNESS: I know there were people, there were
18 park police personnel and other, and civilians in the area of
19 Pennsylvania Avenue on the sidewalk, in the park, on the
20 Lafayette Park sidewalk. I and my group made a beeline for
21 the point, as I have hashed it out here. And we went amongst
22 those people who were there already.

23 BY MS. GEORGE:

24 Q And were the 13 individuals that you just previously
25 described, were they already on the ledge at the White House

1 fence when you arrived?

2 A No.

3 Q Did you see them come into the area of Pennsylvania
4 Avenue?

5 A Yes, Ma'am.

6 Q And how did they come into the area of Pennsylvania
7 Avenue?

8 A I saw one group come out of Lafayette Park.

9 Q When you say one group, is that the group with the 13
10 individuals?

11 MR. FELDMAN: Objection, form, Judge.

12 THE COURT: No, I think that's fair.

13 Did you see all 13 march from the far part of
14 Lafayette Park to the nearer part?

15 THE WITNESS: No, Your Honor, not that I recall.
16 That group that came out of Lafayette Park, Your Honor, they
17 include some of the arrestees, the people that were later
18 arrested. But I don't recall if they were all in that group.

19 BY MS. GEORGE:

20 Q Where was Dan Choi at this time?

21 A I believe he came out of Lafayette Park, Ma'am.

22 Q And did you see -- the group that you are describing that
23 came, you put your finger and you went from north to south,
24 going through Lafayette Park, correct?

25 A Like that (indicating). Are you saying what direction

1 did they came from, Ma'am?

2 Q Yes, which direction? Let me just ask you that.

3 A I recall them coming, I don't know if they used the grass
4 or one of these paths, but I recall them coming -- is this
5 south?

6 THE COURT: That's south.

7 BY MS. GEORGE:

8 Q That's south.

9 A I recall them coming, they were moving in a southerly
10 direction.

11 Q Okay. So, did they come from the H Street area up here
12 (indicating)?

13 A I don't know, Ma'am. I didn't see them at that point.

14 Q Okay. You saw them somewhere in Lafayette Park and then
15 they walked in a southerly fashion towards Pennsylvania
16 Avenue; is that correct?

17 A As far as I know, yes, Ma'am.

18 Q And the people that you saw in that group, do you recall
19 how they were walking?

20 MR. FELDMAN: Objection, form.

21 THE COURT: Well, when you say how they were
22 walking, do you mean were they in military cadence?

23 MS. GEORGE: No. I just want him to describe what
24 he saw, how they were walking through the park.

25 THE WITNESS: I don't recall their sort of exact

1 style of movement. I was concentrating on getting myself to
2 that point as well.

3 BY MS. GEORGE:

4 Q And what was your role? Why were you so concentrated on
5 getting to that point?

6 A Well, because that was the beginning of the speech.

7 Q Well, which speech? Who was going to give a speech?

8 A Well, the speech of the 13 people.

9 Q And who was leading that speech?

10 MR. FELDMAN: Objection, asked and answered.

11 THE COURT: At this point when you say the speech,
12 do you mean these people were now assembling to go across the
13 street to get on the ledge, right? That's what you call the
14 speech?

15 THE WITNESS: In that process, yes, Your Honor. The
16 speech of -- yes, Your Honor.

17 THE COURT: Was there a particular person
18 denominated at that time to lead?

19 THE WITNESS: I don't recall, Your Honor.

20 THE COURT: It was not you?

21 THE WITNESS: No, it was not me.

22 THE COURT: Okay. You can sit down, I believe.

23 BY MS. GEORGE:

24 Q And isn't it correct that you had a bullhorn?

25 A Yes, Ma'am.

1 Q And you had that bullhorn because you were going to be
2 directing some chant; isn't that right?

3 A I was going to be engaging in speech myself using the
4 bullhorn, yes, Ma'am.

5 Q Right. And you were going to say something into the
6 bullhorn; isn't that correct?

7 A Yes, Ma'am.

8 Q And then the group that was on the ledge was going to
9 respond to what you said out of the bullhorn; isn't that
10 correct?

11 A No, Ma'am, not necessarily. My goal was to provide a
12 narrative, to speak, to describe to the crowd what was
13 happening, to engage in my own chants, to be able to respond
14 to their chants if possible, and to speak directly to
15 President Obama.

16 Q Okay. So you did participate in chants with the 13
17 individuals that were on the White House fence?

18 A If by participation, you mean I made a chant that was in
19 connection with their chant, yes, Ma'am.

20 Q And also you called out their names through your bullhorn
21 as the demonstration was going on; isn't that correct?

22 A Yes, Ma'am, that's correct.

23 Q I'd like to show you what's been marked and admitted as
24 Government's Exhibit 35. Do you recognize the individual in
25 that?

1 A Yes, Ma'am, that is me.

2 Q I'd also like to show you Government's Exhibit 31 and 32.
3 Are you in Government's Exhibit 31?

4 A Yes, Ma'am.

5 Q And could you please point for the Court where you are
6 standing?

7 A Well, I'm the individual in the foreground in uniform to
8 the center, right center, center right of the picture.

9 Q And you are the only person in uniform that is not
10 standing on the White House ledge; is that correct, or on the
11 fence ledge?

12 A Yes, Ma'am, in that photo.

13 Q Yes, in Government's Exhibit 31?

14 A Yes, Ma'am.

15 Q Showing you Government's Exhibit 32, are you also shown
16 in Government's Exhibit 32?

17 A I see it.

18 Q And are you in the approximate same spot that you were in
19 in Government's Exhibit 31?

20 A Yes, Ma'am.

21 Q And in Government's Exhibit 31 and 32, there is no
22 bullhorn. Is the bullhorn in front of them?

23 A No, I'm not carrying the bullhorn at that time.

24 Q Okay. When did you get the bullhorn?

25 A At some point, at some point of my moving across

1 Pennsylvania Avenue, I received it.

2 Q And earlier you testified that the police came in and
3 disbursed individuals or told individuals to leave and go
4 across Pennsylvania Avenue into Lafayette Park?

5 A Yes, Ma'am, at some point they did that.

6 Q And were you part of that group that was trying to get
7 into Lafayette Park?

8 A Was I part of what group that was what?

9 Q Were you part of the individuals that were told to go
10 into Lafayette Park?

11 MR. FELDMAN: Objection, form.

12 THE COURT: Overruled.

13 THE WITNESS: Yes, Ma'am.

14 BY MS. GEORGE:

15 Q And is it after you went into Lafayette Park that you got
16 the bullhorn?

17 A I don't recall.

18 Q But you didn't have the bullhorn when you were standing
19 in the spot that you are standing in in 31 and 32?

20 MR. FELDMAN: Objection, asked and answered, Judge.

21 THE COURT: Go ahead. Please move on. You have it.

22 BY MS. GEORGE:

23 Q Do you recall some of the chants that you made on
24 November 15th, 2010?

25 A Yes, Ma'am.

1 Q Could you please tell the Court what you were saying?

2 A Let me think of it for a second. The one central chant
3 is, I am somebody, I deserve full equality, right here, right
4 now.

5 Q And, Mr. Pietrangelo, after you went into Lafayette Park,
6 after the police disbursed those individuals in that
7 direction, did you ever return to the White House sidewalk?

8 A If I could just clarify, I was on the Lafayette Park
9 sidewalk.

10 Q Yes.

11 A So that's where I went to.

12 Q When they disbursed you?

13 A Yes, Ma'am.

14 Q And towards that area?

15 A Yes, Ma'am.

16 Q And my question is, did you ever return to the White
17 House sidewalk?

18 MR. FELDMAN: Objection. At what point, Judge?
19 Unclear. That day, next week?

20 THE COURT: She's going to have him state.

21 Go ahead, please.

22 BY MS. GEORGE:

23 Q After you were disbursed into Lafayette Park, did you
24 ever go back to the White House sidewalk where you were
25 without the bullhorn?

1 MR. FELDMAN: On that day, Judge, right?

2 MS. GEORGE: That's what we're discussing.

3 THE WITNESS: I think you're conflating sort of the
4 time line here: "I obtained the bullhorn before that cordon
5 line had reached the sidewalk. In fact, I remember
6 specifically being on Pennsylvania Avenue and an officer
7 coming up telling me, you need to move back. And I had the
8 bullhorn at that point and that's when, after his direct
9 order to me, in my right up, you know, several feet from my
10 face, that's when I moved back to Lafayette Park sidewalk
11 where I remained with the crowd. And I don't believe I ever
12 left, I ever crossed that cordon line until after they had
13 removed the individuals in the paddy wagons."

14 MS. GEORGE: That's exactly what my point is.

15 BY MS. GEORGE:

16 Q So you stayed in Lafayette Park with your bullhorn during
17 the chants?

18 A Just again, just to be precise, when you say Lafayette
19 Park, we're talking the sidewalk, right?

20 Q Yes. You said you were told to move towards Lafayette
21 Park, and you stood on the sidewalk that is in Lafayette
22 Park; isn't that correct?

23 A Yes, Ma'am.

24 Q Yes. And that's where you stayed with your bullhorn
25 during the chants; isn't that correct?

1 A Yes, Ma'am.

2 MS. GEORGE: No further questions at this time, Your
3 Honor.

4 THE COURT: Thank you, sir.

5 Redirect?

6 MR. FELDMAN: Thank you, Your Honor.

7 MS. GEORGE: Oh, Your Honor, one additional thing,
8 I'm sorry. We didn't have the video from March 19th
9 available. We have it ready now. I'd like to play it at
10 this point in time.

11 MR. FELDMAN: Judge, I object to that. After I
12 finish my redirect, please.

13 THE COURT: All right. Finish your redirect, then
14 we'll see.

15 MS. GEORGE: Your Honor, will I be allowed to play
16 it regardless of --

17 THE COURT: Yes, you will.

18 REDIRECT EXAMINATION

19 BY MR. FELDMAN:

20 Q Good afternoon, Captain.

21 A Good afternoon, Mr. Feldman.

22 Q What you were asked on cross, why you simply did not go
23 to the White House and walk around and carry signs and
24 chants, can you please explain to the Court in your own
25 language why you chose a different method of deployment?

1 A It wouldn't have been as effective if we had done that.

2 Q Please explain.

3 A It wouldn't have had the same dramatic effect as if --
4 and also, we would have been subject to the law pertaining to
5 the sidewalk.

6 Q Thank you.

7 Now, on the March 18th tape, correct me if I'm
8 wrong, and I believe -- well, do you recall, before I lead
9 you, do you recall on the March 18th tape there was a
10 different chant? Think back of it. I'll give you a little
11 clue if you can't remember. Do you remember the March 18th
12 chant? Hey, hey, ho, ho --

13 MS. GEORGE: Objection, Your Honor, leading the
14 witness.

15 MR. FELDMAN: I'm sorry. I'm sorry.

16 THE COURT: I thought I heard something like what
17 you're saying. Does that refresh your recollection, the hey,
18 ho?

19 THE WITNESS: Vaguely, Your Honor. I don't recall
20 the rest of it.

21 THE COURT: Let me help you. I thought I heard it.
22 Hey, ho, don't ask don't tell has got to go.

23 THE WITNESS: I do recall that. I don't recall at
24 which protest that was said, Your Honor.

25 THE COURT: But the hey ho thing is --

1 THE WITNESS: Yes, Your Honor.

2 THE COURT: -- that's the chant.

3 BY MR. FELDMAN:

4 Q And also, was it also, hey, hey, ho, ho, homophobia has
5 got to go?

6 A I don't recall that one.

7 Q Now, on the March 18th deployment, the person, and if you
8 don't remember from your independent recollection, the
9 individual, as you are facing the White House all the way on
10 the left, appeared to be wearing, the person appeared to be
11 wearing a naval uniform. I don't know the difference. Do
12 you recall that person?

13 A This is the --

14 Q March 18th?

15 A April 20th, 2010.

16 Q I'm sorry, April?

17 A Yes, sir. You're referring to Autumn Sandeen?

18 Q Yeah. And do you know Autumn Sandeen, very, very
19 briefly, do you remember that person's rank?

20 MS. GEORGE: Objection, relevancy.

21 THE COURT: Overruled.

22 Was he the older gentleman who was to your --

23 MR. FELDMAN: That's on the right, Judge, that's on
24 the right.

25 THE COURT: On the right.

1 BY MR. FELDMAN:

2 Q As you are facing the White House on the left?

3 A She is the retired service member in a skirt, a black
4 skirt and a top, Your Honor.

5 Q Are you aware --

6 THE COURT: In the Navy that would be their winter
7 uniform, right?

8 THE WITNESS: I believe so, Your Honor. Not their
9 whites, not their summer whites.

10 THE COURT: Not their whites?

11 THE WITNESS: Yes, Your Honor.

12 BY MR. FELDMAN:

13 Q Do you, are you aware of her sexuality, to use the
14 government's word?

15 MS. GEORGE: Objection, Your Honor.

16 MR. FELDMAN: Oh, it's relevant.

17 THE COURT: Overruled.

18 BY MR. FELDMAN:

19 Q And maybe I'm using the wrong word. Gender, that's
20 better.

21 A Autumn Sandeen is a transgender woman.

22 Q Thank you. Preop or postop, if you know?

23 A I don't know.

24 Q Thank you.

25 MR. FELDMAN: One moment, Judge?

1 THE COURT: Sure.

2 (There was a pause in the proceedings.)

3 BY MR. FELDMAN:

4 Q Okay. Since the Judge, the great Judge guides us who
5 knows more than I do, the older gentleman on the right, do
6 you recall that person?

7 A Yes. That was Larry Witt, a former, a sailor.

8 Q Okay. Do you know his approximate age? The Judge said
9 he appeared older.

10 A He's in, at least in his fifties, if not sixties.

11 THE COURT: Is that old?

12 BY MR. FELDMAN:

13 Q That old, huh?

14 Do you know if he suffered from any serious medical
15 condition?

16 MS. GEORGE: Objection, relevancy, Your Honor.

17 THE COURT: Overruled.

18 THE WITNESS: Yes.

19 BY MR. FELDMAN:

20 Q And please tell the Court.

21 A He is HIV positive.

22 Q And do you, are you aware whether or not he was given his
23 HIV medicine when he was incarcerated by the government?

24 MS. GEORGE: Objection, relevancy, Your Honor.

25 THE COURT: Do you know anything about that?

1 THE WITNESS: Yes, Your Honor.

2 THE COURT: What do you know?

3 THE WITNESS: He was denied medical attention. In
4 fact, when he and I were transferred to the D.C. cellblock,
5 he had an attack which seemed to me to be a heart attack. He
6 was sweating profusely and pale and trembling, and he asked
7 to be taken to the hospital and they refused. I was next to
8 him and I begged the booking officer to take him to the
9 hospital.

10 MR. FELDMAN: I have no further questions.

11 THE COURT: Thank you. You may stand down, sir.

12 THE WITNESS: Thank you, Your Honor.

13 THE COURT: Thank you, you're excused.

14 MS. GEORGE: Your Honor, may I play the video now,
15 please?

16 THE COURT: Please.

17 MR. FELDMAN: Judge, with your permission, I am
18 going to ask that Captain Pietrangelo be allowed to remain in
19 the back of the courtroom?

20 THE COURT: Sure.

21 MS. GEORGE: I may have a few questions for him in
22 reference to this video.

23 MR. FELDMAN: Oh, I'm sorry.

24 THE COURT: I'm sorry, I let you go. Excuse me.

25 (Witness remains on the stand.)

1 MS. GEORGE: Your Honor, for the record, this is
2 Exhibit 13.

3 THE COURT: Thank you.

4 (Video played.)

5 THE COURT: I'll take judicial notice of the fact
6 that is the Superior Court of the District of Columbia.

7 MS. GEORGE: Thank you, Your Honor.

8 BY MS. GEORGE:

9 Q And, Mr. Pietrangelo, you heard Mr. -- that was Mr. --

10 MR. FELDMAN: Judge, it's Captain Pietrangelo.

11 THE COURT: Captain, please. Ms. George, please
12 proceed to use his name, Captain Pietrangelo.

13 Is that what you would prefer, sir?

14 THE WITNESS: Yes, Your Honor. Thank you very much.

15 THE COURT: All right.

16 BY MS. GEORGE:

17 Q Did you see Mr. Choi in that video?

18 A Yes, Ma'am.

19 Q And that was yourself standing next to him; is that
20 correct?

21 A Probably so, yes, Ma'am.

22 Q You said what?

23 A Probably so, yes, Ma'am.

24 Q So you're not sure if that was --

25 MR. FELDMAN: Oh, Judge, a little bit of humor is

1 not going to kill the captain. Thank God, finally.

2 THE WITNESS: Yes, Your Honor.

3 Yes, Ma'am.

4 BY MS. GEORGE:

5 Q And you already testified that, let me just say this:

6 The date on that was March 19th; isn't that correct?

7 A Yes, Ma'am.

8 Q And you already testified that on April 20th you went to

9 the White House fence with Mr. Choi, correct?

10 A April 20th?

11 Q Yes.

12 A This was the April -- yes, Ma'am.

13 Q And then on November 15th, 2010, you were there again

14 when Mr. Choi was there; is that correct?

15 A The last part of your sentence?

16 Q You were there again at the White House fence on November

17 15th, 2010?

18 MR. FELDMAN: Judge, didn't she ask that on her

19 first redirect?

20 THE COURT: Yeah, I think it is self evidence that

21 you were there. You are not denying that you were there,

22 right, sir?

23 THE WITNESS: Yes, Your Honor, that's correct.

24 THE COURT: Okay. Anything else?

25 MS. GEORGE: I'm fine, Your Honor.

1 THE COURT: I hope so. Let's go.

2 Thank you, Captain.

3 (Witness excused.)

4 THE COURT: Call your next witness.

5 MR. FELDMAN: Yes, the defendant calls himself,
6 Lieutenant Dan Choi.

7 (The Defendant, Daniel Choi, sworn.)

8 DIRECT EXAMINATION

9 BY MR. FELDMAN:

10 Q Good afternoon, Lieutenant.

11 A Good afternoon, sir.

12 Q Please give your date of birth.

13 A February 22nd, 1981.

14 Q And please give your undergraduate alma mater.

15 A I graduated from the United States Military Academy at
16 West Point.

17 Q And did you receive a degree therefrom?

18 A Yes, a Bachelor of Science, enviromental engineering,
19 Arabic language and Middle Eastern studies.

20 Q Are you fluent in any other languages other than English?

21 A My first language was Korean, which is the language we
22 speak at home. I studied Spanish in high school. And I
23 majored in Arabic and I retained fluency.

24 Q Did you retain fluency in the Arabic language when you
25 were in the army?

1 A Yes, sir.

2 Q Did you retain fluency in the Arabic language when you
3 were deployed to the Middle East?

4 A Yes, to both Kuwait and Iraq.

5 MR. FELDMAN: Now, at this point, I'd like to have
6 what was previously given to the government marked as Defense
7 Exhibit A.

8 THE COURT: This will be marked as Government's A
9 and shown to the witness.

10 MR. FELDMAN: Defense A, Your Honor.

11 THE COURT: I'm sorry, excuse me.

12 (Defendant's Exhibit A was marked and admitted into
13 evidence.)

14 MR. FELDMAN: Can Defense A be shown to the witness?

15 THE COURT: Sure.

16 MR. FELDMAN: Thank you, Judge.

17 BY MR. FELDMAN:

18 Q I show you what's been previously marked as Defendant's
19 Exhibit A for identification purposes only. I ask that you
20 look at it. After looking at it, I ask that you tell the
21 Court whether or not that is a true and accurate copy of your
22 transcript from the United States Marine West Point Academy?

23 A Yes, it is the transcript of academic record.

24 MR. FELDMAN: I ask that it be admitted into
25 evidence as Defense exhibit A?

1 THE COURT: Certainly.

2 MR. FELDMAN: Thank you.

3 THE COURT: You said the United States Marine
4 Academy. It's the United States Military Academy.

5 MR. FELDMAN: Oh, I'm sorry. I'm sorry, Your Honor.

6 THE COURT: May I see it?

7 MR. FELDMAN: Certainly.

8 THE COURT: Thank you, counsel. Please proceed.

9 MR. FELDMAN: Thank you.

10 BY MR. FELDMAN:

11 Q Okay. I'd like to discuss very briefly, did there ever
12 come a point, when did you come out of the closet? When did
13 you admit to the world that you were a homosexual?

14 A Well, I believe gay people come out of the closet every
15 time they have a conversation. I did it most dramatically on
16 the Rachel Maddow Show on MSNBC in a live interview in March
17 of 2009. I came out to my parents two months before.

18 Q Which was worse, which was more dramatic, to use your
19 words, coming out to your Korean parents or coming out on
20 national TV, if I may ask, Lieutenant?

21 MS. GEORGE: Objection, relevancy.

22 THE COURT: Overruled.

23 THE WITNESS: My father is a Southern Baptist
24 minister and a missionary into China and has done
25 humanitarian work in North Korea. He raised me in the Gospel

1 truth of Jesus Christ. And when I told him, he quite
2 honestly didn't have the vocabulary in the Korean language to
3 understand what gay meant, other than wearing high heels and
4 getting AIDS.

5 As I explained to him that I'm HIV negative and I'm
6 not transgender, he still is understanding and trying to
7 learn what it means to be gay in America. For, in his mind,
8 there is no such thing as a gay Korean.

9 My mother was worse. Her father was a pastor of a
10 mega church in South Korea and a war orphan who did not want
11 to lose any more sons to any more wars. When I told her that
12 I would not marry a Korean girl, she only worried that she
13 would not have Korean grandchildren. And she's a --

14 BY MR. FELDMAN:

15 Q Are you sure she's not Jewish?

16 A I believe that the disappointment and the feeling of
17 emptiness in my mother's heart because I would not have
18 Korean grandchildren certainly sprouted from a cultural
19 misunderstanding of what it meant to be gay in contemporary
20 America. But she postulated that it would be better for me
21 to have a fake wedding and --

22 Q What do you mean by a fake wedding? To a woman or
23 something?

24 A She taught me my entire life that marriage should be
25 based in love and commitment. But when I explained that my

1 identity does not match her dream, she came up with any
2 solution that she could so that culturally she would be
3 accepted by her own friends. She is a nurse in the maternity
4 ward, this postpartum section, and she loves babies. And she
5 offered that if I married a Korean girl and I had a large
6 Korean wedding, then indeed, she would be proud of me and she
7 would be honored by that decision.

8 Q May I ask, did that postulation from your mom conflict
9 with any of your ethos, ethics or codes?

10 A My father taught me in Bible study that Thou Shalt Not
11 Bear False Witness to Thy Neighbor. You Should Honor Your
12 Father and Your Mother in the Lord for This is Right.

13 Additionally, at West Point, I learned the honor
14 code that a cadet should not lie, cheat, steal or tolerate
15 those who do. And the toleration clause of that honor code
16 is not only most difficult in the heart of every cadet, but
17 it forces anyone living a lie to recognize that the
18 toleration of one's own lie, of one's own mischaracterization
19 of his own identity, is a violation of honor in every single
20 facet of the meaning itself.

21 Q Let's fast forward or concentrate on your graduation from
22 the West Point Academy. Did there come a time -- sorry, I
23 did it again.

24 What was your next level of education, if any?

25 A I continued studies at Harvard University at the

1 extension school. Because I was active duty and serving in
2 the capacity of an infantry officer, there wasn't much time
3 for continued education of the traditional sort, so I took
4 classes at night. And my major, which I intended would be
5 religious fundamentalisms as well as linguistics.

6 Q Arab linguistics?

7 A Particularly Middle Eastern linguistics, yes, sir.

8 Q Okay. Did there come a time that you went to Iraq?

9 A Yes, in 2006 and 2007. It was one extended deployment of
10 15 months.

11 Q What was your billet over there?

12 A My billet, sir?

13 Q Yeah. Am I using the right word?

14 A Or my unit?

15 Q I'm sorry, what do I know? Please explain, tell the
16 Judge what you did over there.

17 A I served in the 10th Mountain Division as an infantry
18 officer. I was in charge at a battalion level of a civil
19 affairs platoon of about 30 to 40 members, depending on the
20 operation. I was able to use my degree in environmental
21 engineering as well as Arabic on a daily basis. Although I
22 was not getting paid to translate Arabic, I was more fluent
23 than the translators that we had. Additionally, I was
24 willing and able to go outside the wire, outside of the base,
25 to patrol, at the minimum, once a week, at the maximum two

1 times a day in South Baghdad, which encompassed some of the
2 most dangerous counties, qadas is what they called it,
3 Q-A-D-A-S, in all of Baghdad Province. We called it
4 (speaking in foreign language).

5 Q Can you spell that or give an English word?

6 A The translation is the triangle of death. And in this
7 region, I had undergone many combat operations and we were
8 mortared. And the first patrol that we had, which was called
9 the Relief in Place or Transfer of Authority, left seat ride
10 or right seat ride in common parlance.

11 Q Not so common to me. Please explain.

12 A When a unit takes over an area, they call it transfer of
13 authority. And when that preceding unit is still there, it
14 is a relief in place. The unit that we replaced was with the
15 101st Airborne Division. And the 10th Mountain Division's
16 second brigade, which I was a member of, replaced them in
17 that entire region, which included Abu Ghraib prison,
18 Mahmudia, which is the, essentially the north border of the
19 Shi'a population and the south border of the Sunni
20 population. There was a lot of ethnic strife as well as
21 sectarian violence in the area, which caused the greater
22 number of casualties than most of the areas in Baghdad.

23 During this time, we were, in 2006, we were mortared
24 almost on a daily basis. In fact, our first night that we
25 got to Iraq, there was a mortar that exploded in Camp

1 Liberty, which was a neighboring and joined,
2 geographically-joined base.

3 And as we went to patrol that night, a convoy which
4 was with the 101st Division was ambushed by an improvised
5 explosive device, which caused the torrid of the machine gun
6 that was on top of the humvee to catch fire and what we call
7 cook off rounds or explode the 50 caliber rounds, 50 caliber
8 bullets.

9 Q Is that loud?

10 A It's extremely loud as well as extremely dangerous for
11 anybody who wanted or needed to rescue the soldiers that were
12 inside that particular vehicle, as it was on fire. The 101st
13 unit we were replacing advised us that we should not rescue
14 any soldiers inside, as it would endanger the soldiers in the
15 rescue operation. So, having to sit in that vehicle, which
16 we were in, and simply watch what we presumed to be soldiers
17 burning alive, was my welcome to the Triangle of Death.

18 Q As a result of these and other combat incidents,
19 Lieutenant, did you suffer any disability, particularly
20 regarding your hearing?

21 A I have a disability reading of 10 percent for tinnitus,
22 which is a ringing of the ear. It is intermittent.

23 Q Now, I want to explore that. I know I'm a little out of
24 order here, while we're on this. Please explain in your own
25 words, I know you are not a doctor, what the effects are of

1 this tinnitus to you, in terms of differentiating -- I don't
2 want to lead you. In terms of --

3 MS. GEORGE: Objection, please don't.

4 THE COURT: That's all right. Go ahead. Please go
5 ahead.

6 BY MR. FELDMAN:

7 Q Please describe the condition of your hearing the best
8 that you can.

9 A When there is ringing in my ears, it's very annoying.
10 And at times I can have headaches. My hearing, as far as
11 military operations go, I would still qualify to serve in the
12 military, but the military gave me a medical record which
13 said my hearing was significantly decreased after the Iraq
14 war.

15 Q Let me interrupt you. Okay. Do you have any other, did
16 you suffer from any other disabilities that were caused
17 and/or created by your service to our country, other than the
18 10 percent disability of tinnitus?

19 A Altogether I have 50 percent disability rating, which
20 includes fractures to my leg I incurred from parachutist
21 jumps, chronic lung conditions, as well as posttraumatic
22 stress disorder.

23 Q All right. Going back a little bit, being an Arab
24 linguist, serving 15 months working in Iraq, going outside of
25 the wire, as you call it, did you learn anything about Iraqi

1 culture?

2 MS. GEORGE: Objection, Your Honor, relevance.

3 MR. FELDMAN: Oh, I'll make the connection.

4 THE COURT: Go ahead.

5 THE WITNESS: Yes. One lesson in particular was a
6 driving force for my renewed struggle in activism, my
7 continuous struggle in activism for gay equality. The Shi'a
8 people of Iraq under Shi'a Islamic jurisprudence, there's a
9 term called Taqiyya, T-A-Q-I-Y-Y-A. Taqiyya is mostly
10 translated concealment or hiding.

11 The Shi'a people for centuries, especially in
12 Baghdad, were ordered and advised by their ayatollahs and
13 their community leaders that if their life was ever in danger
14 because of their identity, then they would not have to tell
15 the truth. Otherwise, they would be compelled to tell the
16 truth, and some scholars would apply this concept of Taqiyya
17 to include if you are in danger of losing your job.

18 As I came back from war in 2007, November, and
19 celebrated Veteran's Day, I wondered, particularly because of
20 the don't ask, don't tell policy, why we tried to help Shi'a
21 people in Iraq gain the confidence and the full personhood to
22 rescind and to repudiate any concept or form of hiding and
23 concealment, while in America gay people willing to die for
24 their country were not able or allowed to live freely in
25 their country in their true essence.

1 BY MR. FELDMAN:

2 Q Okay. I am going to use that as a segue to your new, not
3 new, it's a couple of years old already, advocacy of
4 activism.

5 Did there come a time when you became a gay
6 activist? And let's start from the Rachel Maddox Show you
7 were on.

8 A I did not use the word activist to describe myself. In
9 fact, in the military, we did not like activists very much.
10 We called them by other names.

11 Q You can spare us of that, please.

12 A Conversations. So, it was very difficult, even on my
13 Facebook page, I simply said, a soldier fighting against
14 don't ask, don't tell. An advocate, but never wanted to use
15 the word activist because of the stigma that it carried for
16 anybody who served in the military and was protested or felt
17 that they themselves were being protested by troublemakers.

18 But when I came out, I supposed that was the day
19 that I --

20 Q You changed your Facebook?

21 A It actually took me about five months to change my
22 Facebook to denote activist after the Rachel Maddox Show
23 interview.

24 Q Okay. Let's talk about some of your activism other than,
25 just very briefly for background, other than the March,

1 April -- and maybe talk about May, we'll talk about that too,
2 and November. Other than the March, April, May and
3 November -- the March, April and November, and we'll talk
4 about May later, have you ever participated or led, should I
5 say, led deployments, to use a military word, international
6 activism?

7 A If I could go in reverse chronological order?

8 Q Yeah, please do.

9 MS. GEORGE: Objection, Your Honor, relevancy.

10 THE COURT: Overruled.

11 THE WITNESS: I had just returned from the Kingdom
12 of the Netherlands, where in Amsterdam I was able to
13 celebrate and commemorate the Stone Wall riots with over 80
14 uniformed members of the Dutch military to include three
15 active duty flag officers, generals.

16 Before that --

17 BY MR. FELDMAN:

18 Q But was anybody appointed as the grand marshal of Gay
19 Pride Amsterdam?

20 A On the front page of their national paper, I don't know
21 the translation precisely, but words to the effect of, fired
22 in the U.S., guest of honor at Gay Pride.

23 Q Was the guest of honor roughly equivalent to us New York
24 or us D.C.'ing a grand marshal in your opinion?

25 A Yes. They had me cut the ribbon, along with a lieutenant

1 colonel in the British navy.

2 Q Thank you.

3 Continue, sir, with your chronological backwards.

4 A Yes. Before Amsterdam Pride, I was very honored to stand
5 with Russians in Moscow to celebrate their identity, although
6 the Gay Pride in Moscow has been deemed illegal by the city
7 government for six years now.

8 Q Did you get arrested again?

9 A I was taken into custody and I was beaten and forced to
10 the ground by Neo-Nazis and Russian Orthodox protestors who
11 themselves had an antigay pride march the week before, fully
12 sanctioned by the Moscow government.

13 When I was taken into custody, I was not handcuffed
14 and, in fact, I was allowed to tweet. And in the Russian
15 jail, which was very clean, I was very well respected by even
16 the Neo-Nazis who were perplexed that there was a openly gay
17 member of the United States military or a veteran thereof.
18 We had a long conversation about many topics, including the
19 West Borough Baptist Church, colloquially known as the God
20 hates fags church.

21 And before Russian, I was asked to be the grand
22 marshal of many internationally known gay pride parades, LGBT
23 pride marches or parades in New York City, Miami.

24 Q What year, as some of us know, were you the New York City
25 grand marshal of the Gay Pride? By the way, other than the

1 International Gay pride, do you know what is the largest gay
2 pride parade in the world?

3 A I believe it is either New York or a Spanish city.

4 Q Okay. But New York, as far as you know, is it in the
5 millions of people who celebrate that parade?

6 A Yes. In fact, this year with the passage of the Marriage
7 Equality Bill --

8 Q In New York?

9 A In New York, there were estimated to be over a million
10 celebrators. And significantly, New York itself celebrates
11 the Stone Wall riots, which happened over 40 years ago.

12 Q And when were you the grand marshal of the New York City
13 Gay Pride Parade?

14 A 2010.

15 Q Just last, just after -- you were the guy before the last
16 one?

17 A Yes.

18 Q Now, I want to talk about the handcuffs. There has been
19 a lot to-do about these handcuffs. Were those handcuffs your
20 property?

21 A Yes.

22 Q Please explain. By the way, did they cost over \$300?

23 A Yes.

24 Q Please explain.

25 A The handcuffs were purchased through an organization

1 dedicated to civil rights and direct action called Get Equal.
2 This organization paid the bill initially for the handcuffs,
3 but ownership of that property was transferred to me.

4 Q Was that constructive and actual possession? Oh, you are
5 not the lawyer. You were holding on to them?

6 A I did help to organize them in such a way that the
7 protestors would be able to access their own individual
8 handcuffs. I helped with that.

9 Q But you would say that the person -- this is a legal
10 conclusion or whatever. Who possessed them? Had them, took
11 care of them, custody of them?

12 A I did, along with some of the other organizers.

13 Q So, it would be fair to say they cost over \$300 and that
14 they were your property?

15 A Yes.

16 Q Thank you.

17 Okay. Let's go back a little bit. And again, what
18 year were you discharged from the United States army?

19 A My official discharge from the army, the second of which,
20 I have an honorable discharge, was June of 2010.

21 Q Did you stand trial for being a homosexual?

22 MS. GEORGE: Objection, Your Honor.

23 THE COURT: Overruled.

24 THE WITNESS: Yes. Under the statute, the former
25 statute, 10 United States Code 654, known as don't ask, don't

1 tell, I was one of over 14,000 who had to stand trial and
2 ultimately get discharged from the military. And that trial
3 happened, technically it was called an Administrative Board
4 for Withdrawal of Federal Recognition, as I was in the New
5 York Army National Guard. The Withdrawal of Federal
6 Recognition Board essentially would not allow me to use the
7 U.S. army name tape. And that trial happened over a year
8 before the ultimate discharge.

9 So I was serving openly, as an openly gay American
10 in my national guard infantry unit with the support of my
11 soldiers and the support of my commander, who told me even if
12 you cannot wear your U.S. army name tape, you are welcome to
13 our unit any time.

14 BY MR. FELDMAN:

15 Q Do you have an opinion as to why your commander permitted
16 such and your men accepted such for over a year, even though
17 you had been found to have violated the ADT?

18 MS. GEORGE: Objection, calls for hearsay.

19 THE COURT: Overruled.

20 Your perception of their views about you. Not what
21 they said, but what you saw.

22 THE WITNESS: Through Facebook messages and through
23 actual conversations with my commander, Lieutenant Colonel
24 John Andonie, A-N-D-O-N-I-E, also a West Point graduate, he
25 felt and my soldiers felt that if I can tell the truth about

1 my sexual orientation and risk my career and not chase rank,
2 privilege, status or pension, that's the kind of person we
3 want to go to Iraq with.

4 BY MR. FELDMAN:

5 Q Let's start with the march, the first one. In your own
6 words, the way Ms. George was questioning Captain
7 Pietrangelo, in that kind of way, sequentially, let's start
8 with March. Please explain.

9 A On March 17th, 2010, I was with my unit, the 69th
10 Infantry Regiment, marching in the Saint Patrick's Day parade
11 and also working security in the headquarters at our armory
12 on 26th Street and Lexington in Manhattan. Immediately after
13 duty, I rode the Chinatown bus to Washington, D.C. with a
14 fresh haircut and a set of army combat uniformed.

15 I arrived at the bus station where I was picked up
16 by Paul Yandura, Donald Hitchcock, Robin McGehee, Michelle
17 Wright, and I believe their dog, Deputy.

18 Q Are any or all of those people in your perception
19 considered public figures?

20 A Yes, and I admired them greatly. They were also mentors
21 to me on a personal level. Robin McGehee and I were a part
22 of the executive committee organizing the March on Washington
23 in October of 2009, where I believe the park police or park
24 services do not estimate the number of attendees anymore, but
25 politically, it was a successful message.

1 Q We won't give that number. We know how biased it is.

2 But what was the number given, if you know?

3 A Over 250,000.

4 Q Okay. Please continue.

5 A As we continued to fight for equality, not only the
6 repeal of don't ask, don't tell, but marriage equality in
7 states such as California with Proposition Eight and Maine
8 with Question One, which I participated in many marches and
9 rallies. I spoke on stages in Los Angeles and San Francisco,
10 in Orono, which is the north part of Maine past the AMTRAK
11 stations, as well as fundraisers and political organizations
12 throughout the country.

13 I found myself becoming more and more of an
14 outspoken activist. And I want to note that my first public
15 speech about gay rights happened one month after coming out
16 on the Rachel Maddow Show and not before.

17 Q Okay. Now, just very briefly, on approximately how many
18 local radio stations -- when I say local, at the time when
19 you lived on -- well, anyway, let's just wrap this up real
20 quick because I want to get to the March stuff.

21 In terms of public figure, approximately how many
22 times have you appeared on TV or radio?

23 MS. GEORGE: Objection, relevancy.

24 THE COURT: I think it bears on the questions
25 presented.

1 Please answer.

2 THE WITNESS: In March --

3 BY MR. FELDMAN:

4 Q Total, your whole activism career, how many times have
5 you appeared on either radio or TV?

6 A Your Honor, it is too many to count.

7 Q More than 100 or less than 100?

8 A More than 100.

9 Q How many times have you appeared in publications;
10 national, international? A thousand or more, 500 or more?
11 An estimate?

12 A It seems to be about a million at this point.

13 Q Okay. Last night, do you have any idea how many articles
14 were, appeared -- I'm sorry, local papers about this trial?

15 A Over 130.

16 Q When you walk on the street or in public areas such as
17 Union Station, right here, are you regularly greeted, asked
18 for your autograph, asked to shake your hand, asked to take
19 your pictures with?

20 A Yes.

21 Q Give the most recent one. It wasn't with me.

22 MS. GEORGE: Objection.

23 THE COURT: Overruled.

24 MR. FELDMAN: It was an attempt at humor. Go ahead.

25 THE WITNESS: At Union Station I was having lunch

1 with my counsel as well as my close friends, and an
2 African-American woman who was an air force veteran pointed
3 at me with her eyes opened very big, and started saying, ooh.

4 BY MR. FELDMAN:

5 Q Who was she with? Who was she with?

6 A She was with her son and her husband. She told me that
7 every time I appear on MSNBC, she forces her son, 17 years
8 old, to stop whatever he is doing and listen to what is
9 happening, for this is the new civil rights movement.

10 Q All right. I'll move on. I think I beat the horse.

11 Well, one more time. Did there come a time on the
12 radio when you were stopped? I mean, how many times were you
13 stopped in the last few days by people in this building?

14 A Washington, D.C. is very common for any time I go
15 outside, at least two or three people recognize me and stop
16 me. And I assume that those who disagree with me simply
17 don't.

18 Q Okay. I'll move on.

19 Let's go right to March. Okay. Tell the Judge what
20 you -- the March rally, okay, the first one, whatever date it
21 was. The one that we belabored, litigated, dissected. I'm
22 not going to do that now. I'm not going to play the tape
23 again. I am just going to ask you for a brief statement in
24 your own words, what happened, what was your intent and how
25 did it end?

1 A When we found that the human rights campaign organized a
2 rally headlined by Kathy Griffin, a comedian, as their main
3 effort in the public discourse to repeal don't ask, don't
4 tell, we also found from a Congressman, Barney Frank, that --

5 Q He is gay, too, right?

6 A Yes, he is openly gay.

7 Q Homosexual?

8 A And he remarked that President Obama does not intend to
9 repeal, does not intent to repeal don't ask, don't tell in
10 year 2010, or words to that effect. Which angered many of
11 the activists who had been fired by don't ask, don't tell, to
12 ask our movement leaders, is a rally with Kathy Griffin the
13 best you can do?

14 Q Because she is not a homosexual?

15 A She is not, neither is she the president of the United
16 States of America.

17 Q Thank you.

18 A And I believe that a rally at Freedom Plaza would not
19 suffice in pressuring our president, the most powerful man in
20 the world, to succumb to our demands of equality in the
21 military. We believed that he could repeal don't ask, don't
22 tell effectively through an executive order, much like --

23 Q Mistakenly believed.

24 A Much like the Executive Order 9981 by Harry Truman.

25 Q What was that? What did Harry Truman do, President Harry

1 Truman do with that one?

2 A That was a desegregation order.

3 MS. GEORGE: Objection.

4 THE COURT: Desegregated the armed forces, right?

5 BY MR. FELDMAN:

6 Q For negroes?

7 A Yes, for all races and religions. It was entitled The
8 Equal Treatment and Equal Opportunity Act. That was the
9 blueprint for our efforts to repeal don't ask, don't tell, in
10 our legislations called The Military Readiness Enhancement
11 Act, HR 1283, which demanded an equal opportunity channel for
12 harassed or soldiers, I say soldiers to mean all military
13 service members, all soldiers who had been discriminated
14 against, as well as enact a nondiscrimination policy and stop
15 the discharges of anybody based on their telling the truth
16 about their sexual orientation.

17 This was our main piece of legislation that we
18 wanted, not only the House of Representatives to pass, at
19 that time it was quarterbacked by Congressman Patrick Murphy
20 of Pennsylvania. In the Senate, there was no bill. And so,
21 we wanted to pressure the president to use his Rolodex.

22 Q We don't call it Rolodex anymore.

23 A To use his --

24 Q Database.

25 A -- database and his significant influence in this town to

1 perhaps pressure senators to help him keep his campaign
2 promise. We were motivated --

3 Q And he did. I'm sorry to cut you off. And did he make
4 such promise to you and to me and to the people of this
5 country, the entire LGBT community, as a senator?

6 A Not only as a senator, as a candidate, stating -- I'm
7 trying to quote.

8 Q Is there anything that would refresh your recollection?

9 MS. GEORGE: Objection, Your Honor. Relevancy and
10 he hasn't said his memory needs to be refreshed.

11 THE COURT: Overruled.

12 THE WITNESS: I don't need refreshing. The quote
13 was, "I want you to hold our government accountable. I want
14 you to hold me accountable."

15 There was another event at the human rights campaign
16 fundraising dinner which happened on the heels of our march
17 on Washington in October of 2009, where the president said,
18 and I will paraphrase if that's all right?

19 Q Yeah.

20 A I will end don't ask, don't tell. That is my commitment
21 to you. Just as nobody can tell me that African-Americans
22 should have been patient during their struggle for civil
23 rights and equality --

24 Q He actually said that, right?

25 THE COURT: Finish your answer, please.

1 THE WITNESS: Yes, Your Honor.

2 -- nobody should tell you that you should be patient
3 or want you to hold me accountable. I was in uniform, in
4 fact, this very uniform, standing at attention throughout the
5 entire time of my commander-in-chief's speech.

6 BY MR. FELDMAN:

7 Q Okay. Anything else you want to say about March 10th?
8 I'm sorry, March 18th?

9 A March 18th was a day that I will never forget in my life
10 because one year of radio and television interviews made me
11 very tired and made me wonder why I needed to continue making
12 speeches that fly in the air. I felt that in the vein of the
13 civil rights history of our country, we could have a moment
14 like the lunch counter sit-in moment at Greensboro, North
15 Carolina, where the four students, Blair, McNeil, McCain, and
16 I believe his name is Robertson --

17 Q Who were they?

18 A They were the four students who refused to leave the
19 segregated lunch counters at the Woolworth's department
20 store.

21 Q What city was that?

22 A This was in Greensboro, North Carolina. That was the
23 first day of their particular operation, not the first day of
24 lunch counter sit-ins.

25 Q By the way, I'm sorry to interrupt you, did those four

1 young people ever stand up and get away from that lunch
2 counter?

3 A To my recollection of history, they stayed until the
4 closing of that restaurant. And the next day, I believe
5 there were 20 students that joined them. On the third day,
6 there were 60; on the fourth day, there were 300. And this
7 continued on until the lunch counter was desegregated. And I
8 believe of note, there were white students that joined them
9 and there was a large amount of media attention garnered by
10 the participation of those who looked like the majority, or
11 looked like the oppressor.

12 And for our moment at the White House, I recognized
13 that in this uniform I might not look gay, and my friends
14 that had been discharged from the military, they might not
15 look Democrat, they might not look Christian, they look like
16 the white people that joined those four and those 30 and
17 those 60 and those 300 because they felt that if somebody
18 could give up something that they had, something of their
19 privilege deserved or undeserved, but not be able to achieve
20 the promise of this country for all people. If they may be
21 able to die for their country, but not live equal in their
22 country, that message would sting in the hearts of anyone
23 watching and wonder why are we waiting? Why should we remain
24 patient? Why should we remain silent?

25 Q So, on March 10th, there were only two standing together

1 and unified before President Obama?

2 THE COURT: I think you meant March 18th.

3 BY MR. FELDMAN:

4 Q I'm sorry. On March 18th, there were only two standing
5 before President Obama; is that correct?

6 A That is correct, although we had the help of many
7 hundreds in the rally that originated at Kathy Griffin's
8 event. But one in particular was Robin McGehee, helped me
9 chain myself. And by chained, I mean, applied the handcuffs
10 to the White House fence. So, I had both of my hands
11 attached, locked to the White House fence. And Captain Jim
12 Pietrangelo, second, who only managed to get one hand locked.
13 And I believe that was because a park services or park police
14 officer prevented him from doing so.

15 Q Anything else you want to say about March 18th,
16 Lieutenant?

17 A I believe that it was a transformative moment for many
18 who realized that a complacent strategy or a comfortable
19 strategy of giving speeches and attending fundraisers in
20 fancy suits, that era needed to end.

21 Q Is that -- you heard Ms. George crossing Captain James
22 Pietrangelo about that, couldn't you simply have just marched
23 around Pennsylvania Avenue with a sign chanting? Would that
24 era of complacency you're referring to such as marching
25 around the White House perimeter, chanting slogans, carrying

1 signs --

2 A I humbly submit that such an action would make it harder
3 to achieve the aims that we profess.

4 Q Please explain.

5 A I believe that the many activists in Washington, D.C. who
6 get arrested in the front of many kinds of buildings, many of
7 these events happen on the weekends. Many of these events
8 are very much like a picnic. And this is a grave insult to
9 the true sacrifice of the civil rights movement, where
10 African-Americans put their bodies on the line, facing down
11 violence of a state apparatus born in fear and terror. I
12 believe that when you see pictures of the dogs and firehoses
13 being turned on and sicced on the innocent and nonviolent
14 demanders of equality, your heart must tremble if you are a
15 patriotic American that finds liberty and justice more
16 important than life itself.

17 Q Was their euphemism to those dogs and those hoses
18 present, executed and threatened by the government of the
19 United States of America on March 18th, when you were so
20 courageously deploying your activist civil disobedience?

21 MS. GEORGE: Objection.

22 THE COURT: Overruled.

23 Did you understand the question?

24 THE WITNESS: I do understand. I believe that the
25 snipers on the White House roof who came out in clear view,

1 as well as the overwhelming force -- and I use those words
2 specifically because in the military we would call it
3 overwhelming fire power --

4 BY MR. FELDMAN:

5 Q Be specific. On that day, be specific.

6 A On that day, there were no firehoses or attack dogs, but
7 the threat of violence by this government was absolute and
8 undeniable. I believe that any time a soldier points a gun,
9 he must have the right, based on the law of land warfare and
10 the Geneva Conventions, Treaty and Custom, to use force or
11 threaten that force. In defense, certainly a soldier may
12 shoot, particularly in a combat zone. And I did not think
13 that we were presenting any kind of violence, particularly in
14 any way, measure or commensurate to the violence that I had
15 seen in Iraq, where innocent civilians had their faces
16 pointed at by M4 carbine rifles that could inflict deadly
17 lethal force.

18 I did not think that in the situation of March 18th,
19 that we presented any kind of threat in a violent manner, for
20 we had no weapons, except for the truth, and we had no
21 ammunition, except for our love. And we had no other
22 strategy than the perseverance of our movement.

23 Q Did you obstruct the highways and byways with that, with
24 your deployment on March 18th? Was that evident on the
25 video? Was that your intent?

1 A I am not an expert on these matters, but I have trained
2 at the National Training Center on how to conduct traffic
3 control points in a combat situation. I have trained Iraqi
4 police officers. I have remained good friends with many of
5 them who know that I'm gay. I have worked with military
6 training teams throughout my deployment. We have patrolled
7 the road from Kuwait to Syria and the one from Kuwait to
8 Jordan. We patrolled and we understand the idea of movement
9 and maneuver as well as enemy forces.

10 I understand any operation in the military construct
11 in terms of the most probable course of action, the MPCOA,
12 and the most dangerous course of action, the MDCOA. Many
13 reckless commanders will always say that the MDCOA is the
14 MPCOA; however, I know that that is not true. When we
15 approached, it was not our intention to block traffic. It
16 was not our intention to obstruct any kind of pedestrian
17 thoroughfare or otherwise. I believe that the only person
18 that was obstructing anything was this president obstructing
19 our journey to equality.

20 Q Well, let's get a little less lofty, please. I'm just a
21 humble trial lawyer, and this Honorable Court is a great
22 judge. But let's specifically talk about who really was
23 obstructing the way. I mean, not the president, he was home,
24 I assume. Who was really obstructing the way? Let's bring
25 it down one notch, please.

1 A Sometimes I -- I remember that when we approached the
2 White House, the park police officer, he was in a white
3 uniform, white blouse or shirt, he --

4 MS. GEORGE: Excuse me, Your Honor, which incident
5 are we talking about?

6 MR. FELDMAN: The 18th of March.

7 THE COURT: The 18th of March.

8 THE WITNESS: He tried to prevent us from standing
9 at all. The moment he saw us, or passing by at all, without
10 interrogating us as to what we were doing there, I remarked
11 that we are nonviolent and I thought that was all that I had
12 to prove to him. And I believe that that was, in fact, the
13 case.

14 He allowed us to have our demonstration and I read
15 his speech before about a hundred people. It was
16 un-permitted, and I did not believe that we needed a permit,
17 although I was not familiar with the exact regulations at the
18 time.

19 I think that when we approached in military uniform,
20 that some people would believe we had the ability to be
21 violent. And I think some people think anybody with military
22 experience has a propensity to use violence. And so, it was
23 very important for me to ensure that anybody being involved
24 in such an action of political pressure, would commit to the
25 tenets of Gandhi and Ankonion, nonviolence, which were in

1 many ways founded in the Bible.

2 And I believe that Captain James Pietrangelo,
3 although he had military experience and I hardly knew him at
4 the time --

5 BY MR. FELDMAN:

6 Q You had just met him a couple of days before, right?

7 A We had phone conversations, but by the time we were on
8 the White House stoop, I believe we had only seen each other
9 face to face about 12 hours. In military, I don't know
10 necessarily who to trust. Even in your unit, a commander
11 must make sure that the soldiers are educated and controlled
12 through a inculcation of the morality as well as the ethics
13 and values of military service, as well as combative
14 regulations and responsibilities.

15 However, I remembered that Mahatma Gandhi, Mahatma
16 K. Gandhi, was himself in the military. And when he engaged
17 in nonviolent civil disobedience or civil resistance, he, in
18 fact, trusted people who understood violence, for they knew
19 what would happen and what reaction violence would invoke in
20 their mind. And in their reaction to violence, I believe
21 Gandhi noted that the word nonviolence depends on the word
22 violence. For, you cannot truly understand nonviolence until
23 you understand violence and what way you would react in a
24 violent situation.

25 So, when I had a phone conversation with Captain

1 Pietrangelo about three days before the event, I decided that
2 I had to test whether this was a person I could trust. He
3 told me that he was in combat, but I know some former
4 combatants who remain very violent. And as he was a former
5 infantry soldier, an enlisted man, I did not know if he had a
6 penchant for violence or destruction.

7 So, I asked him what if we have a demonstration, and
8 in order to get more attention, we ignite a smoke bomb that
9 would not be lethal force, but it could be construed as a
10 violent action.

11 Q Or threatening?

12 A A threatening action, a menacing action. I thought that
13 we needed to garner as much attention as possible so in that
14 context, I offered this idea. Captain Pietrangelo said that
15 we cannot do that.

16 Q Which idea?

17 A The idea to ignite a smoke bomb, a cannister of gas. He
18 said, absolutely not, Dan, because as Martin Luther King
19 taught us, darkness cannot drive out darkness, only light can
20 do that. Hatred cannot drive out hatred, only love can do
21 that.

22 Q Okay. Was it your intention to threaten -- I'm sorry, to
23 pose a threat to public safety, law enforcement actions and
24 emergency operations that involved a threat to public safety
25 or park resources or other activities where the control of

1 public movement and activities is necessarily to maintain
2 order and public safety, on March 18th?

3 A None of those were stated goals.

4 Q Okay. Was it your intention to pose a threat to public
5 safety, law enforcement actions and emergency operations that
6 involved a threat to public safety or park resources or other
7 activities, where the control of public movement and
8 activities is necessary to maintain order and public safety,
9 on the April one, yes or no?

10 A No, not at all. In fact, if any of those were our stated
11 intentions, I believe it would be defeating the purpose of
12 our political impression.

13 Q Was there another deployment that the government
14 neglected to mention, between the March one, the April one
15 and the November one? Was there a May one?

16 A Yes, there was.

17 Q Let's skip that. Let's go to November. Unless you want
18 to talk about May?

19 THE COURT: Why don't we do that. Why don't we give
20 our hard working court reporter 10 minutes. We'll reassemble
21 at five of.

22 (A brief recess was taken.)

23 THE COURT: Please proceed, counsel.

24 MR. FELDMAN: With the Court's permission and with
25 the U.S. Attorney's Office, we are admitting into evidence

1 Defendant's B.

2 THE COURT: You put a DVD in there and it did not
3 work?

4 MR. KENT: Right.

5 THE COURT: Put it on your laptop and we'll do the
6 best we can.

7 (Defendant's Exhibit B, a videotape, was played.)

8 BY MR. FELDMAN:

9 Q Lieutenant, can you please describe in better detail than
10 maybe was visible, is this from a different view basically,
11 than we have on the tape?

12 A Yes, I believe it is from the press cordoned-off section.

13 Q So it would be from --

14 MS. GEORGE: Objection.

15 THE COURT: We saw today earlier, Lieutenant, didn't
16 we, a video that showed us that there was a median on the
17 other side of the yellow line?

18 THE WITNESS: Yes.

19 THE COURT: Is it your understanding that that is
20 the perspective from which this particular section is taken?

21 THE WITNESS: Yes. And I believe this came from the
22 Washington Blade.

23 THE COURT: Which is, I know it as a newspaper in
24 D.C.

25 THE WITNESS: Yes.

1 BY MR. FELDMAN:

2 Q Okay. Please continue the tape. Oh, stop it there, I
3 forgot to ask you, please explain the position of your arm
4 when the government agent put his hands on your arm?

5 A I honestly do not recall exactly what was going on. When
6 I saw this video for the first time a few days ago, I was
7 surprised to see some of that happen.

8 Q But did that refresh your recollection of what happened
9 to your body?

10 A I actually could not see what was exactly happening to my
11 body. But there were many sensations that were happening
12 throughout the entire ordeal. But I couldn't possibly
13 understand who was doing what or what body part was being
14 twisted in which way.

15 Q Was any of your body parts twisted in which way? And
16 after viewing the video, did you come to understand which
17 part of your body was twisted which way?

18 A Yes, I believe my left arm was the most twisted, as you
19 can see here (indicating). And I also now realize why I
20 couldn't feel my index finger for about two weeks after this
21 incident.

22 Q Please continue the videotape.

23 (Videotape resumed.)

24 MR. FELDMAN: Thank you.
25

1 BY MR. FELDMAN:

2 Q Do you need to or want to comment further on the November
3 15th deployment and arrest?

4 A November 15th arrest was very surprising in my mind,
5 especially looking back at that video and seeing it in the
6 detail, which is clearly much more graphic than I
7 previously -- I do not recall a lot of what happened, but I
8 also do not recall if I blacked out. I have been unconscious
9 before momentarily because of combat, particularly mortars
10 that exploded on the other side of a concrete barrier for an
11 operating base, Mahmudia. And I have seen the procedures of
12 detention, detainee operations being used with less violence
13 than what I saw here.

14 But I believe some of the tactics are similar to the
15 ones that we learned for war. And as I look back on it, I do
16 remember it as a combat zone. I believed that the park
17 police at that time were the ones that were obstructing
18 traffic because as we marched, walked from Lafayette Park to
19 the White House stoop, I did not think that the police squad
20 wagons for any reason just happened to be there for any
21 permanent or nonpermanent activity. I was very surprised to
22 see that the obstruction of traffic had already been
23 committed by the park police. And I remember very clearly,
24 there was a lot of nervousness in the group. Many of them
25 were first-time offenders, so to speak.

1 Q Alleged offenders, I hate to correct you and forgive me
2 for leading, Judge.

3 A I believe that many people didn't know the exact words to
4 use, and I suppose I still don't know the right words to use.
5 But those that were with me, many of them, for them it was a
6 spiritual moment as well because they were going through what
7 I went through in March. And I had to remain cognizant of
8 that because I know exactly the procedures that might be used
9 because I had been there twice before. And I helped to
10 organize a third event in May which --

11 Q Please explain briefly.

12 A There were six civilians that wore an Uncle Sam white
13 T-shirt saying, I Want You To Report DADT. We had a stayaway
14 order imposed from the Municipal Court as we were still
15 awaiting judgment for the two arrests that happened in March
16 and April.

17 Q So, you had an open case when you were doing that one,
18 basically?

19 A Yes.

20 Q Right.

21 A The Court said if you, Honorable Judge Ringell, I
22 believe, ordered us to stay away from the White House or we
23 would be in contempt of Court. And I was not willing to -- I
24 did not think that we would accomplish anything by doing
25 that.

1 Q So you respected that judge's decision?

2 A Absolutely. I saluted him twice at arraignment. And I
3 remember he remarked that he had never been saluted before in
4 this Court.

5 Q Let me stop you for a second. What was the disposition,
6 if you know, of the two prior alleged criminal cases,
7 criminal cases?

8 A I believe at the Municipal Court they told us it was
9 failure to obey a traffic -- they put a T on our wristbands.
10 And so, the U.S. Marshals, the next morning as we spent the
11 night in the cellblock, the U.S. Marshals told us it was just
12 a traffic violation. And so, we would go before this very
13 common judge that most everybody knows.

14 Q Traffic guy?

15 A Yes. And many people told us about Judge Ringo and
16 advised us that usually you would post and forfeit, or I
17 believe the word was nolo contendere. Not being guilty, but
18 just saying I want to be done with this, let me move on.

19 After the two arrests, they imposed a stayaway order
20 and we abided by that. So that in May, when six civilians
21 were getting arrested, we dared not cross Pennsylvania
22 Avenue.

23 Q You did not?

24 A We did not.

25 Q Okay. Did there come a time that you met a individual

1 that later became known to you as a Mr. Hodge or Mr. Hodges?

2 MS. GEORGE: Objection, relevancy.

3 THE COURT: Overruled.

4 BY MR. FELDMAN:

5 Q Also known as Sergeant Detective Hodges of the United
6 States park police?

7 A I believe that Detective Hodge, I did not know his name
8 until --

9 Q Timothy Hodge.

10 A All right. Timothy Hodge was the detective who asked
11 many questions in March of 2010. We were not afforded a
12 lawyer and I did not know any of the procedure for arrest. I
13 did not know my rights really. After asking us our military
14 status, he ordered me to stand up in a military tone as if he
15 was my drill sergeant.

16 Q Describe his physical character, if you can.

17 A He was tall and dressed very nicely. And --

18 Q Was he taller than you?

19 A I believe so. He was very imposing. I'm --

20 Q Even taller than you? How tall are you?

21 A I am five foot, 11. And he was a little bit taller than
22 me as I recall. Most of the time I was either sitting down
23 or on the ground or getting -- awaiting charges. And when he
24 ordered me to stand up, he remarked in a very loud voice, I
25 was in the Corp, which I assumed meant the Marine Corp. And

1 continued on to say, and I know what you are not supposed to
2 be doing.

3 At which point he grabbed my rank insignia, it was
4 velcro and violently ripped it off in a very ceremonious way.
5 And I had never been treated like that since hazing at West
6 Point, my plebe year. And then he grabbed the American flag
7 off of my right shoulder and even more ceremoniously ripped
8 it off so that it would make a loud noise, as loud as he
9 could. And he did the same with my last name tape, which had
10 Choi. And then he said, get in yourself. This was at
11 Anacostia.

12 Q Did there come a time when you ran into this individual
13 again?

14 A The next time I saw him was in April. And he did not rip
15 off my insignia, but ensured that others took it off of me.
16 He was clearly in command or he had a commanding presence.
17 And then I saw him again this time in clear view of the
18 public. And I believe that we made eye contact and he was
19 intending to make eye contact with me. And he was, again,
20 dressed very sharply with a trench coat and I believe a beige
21 three-piece suit and shiny shoes. And he stood right in
22 front of me in November. And I told the priest --

23 Q Father Farrow?

24 A Father Raphael Farrow, that this was the guy that ripped
25 off my flag and he was in the Corp too. I was surprised to

1 see him in public. And he was the one who was also taking
2 off the rank as far as I saw, from my friend Specialist Rob
3 Smith. And that is --

4 Q Please, let me stop you there. Sorry. Remember --

5 MR. FELDMAN: And I'm not going to play it again,
6 Judge, unless you don't remember it. But I'll mercifully not
7 play it.

8 BY MR. FELDMAN:

9 Q Do you remember when you guys were going, and please help
10 me, he earned his rank, leave it on. Something like that?

11 MS. GEORGE: I'm sorry, what did you say?

12 MR. FELDMAN: He earned his rank, leave it on. Was
13 that -- how does that one go?

14 THE WITNESS: He earned that rank, don't take it
15 off. And the reason why I was compelled to chant that was
16 that when you take somebody's rank from them, you make them
17 your inferior in every sense of the word.

18 BY MR. FELDMAN:

19 Q Sorry to interrupt you again. I know you have got a
20 great flow here, but I really want the Judge to hear it and
21 to understand.

22 What point did you feel compelled to go into that
23 particular chant? What caused you to do that?

24 A I saw Detective Sergeant Timothy Hodge, again, taking the
25 rank off of a fellow veteran.

1 THE COURT: And that was Smith?

2 THE WITNESS: Rob Smith, Specialist. Yes, sir.

3 MR. FELDMAN: At this point, I ask that this be
4 marked as Defense C for identification purposes only. And
5 since this is not a jury trial, I'm going to, for purposes of
6 connection from Mr. Hodge, I'm going to ask to admit this as
7 an official police business report record subject to
8 connection? I understand I have no consent, but I'm going to
9 make that motion now, Judge.

10 THE COURT: Let me see it, please.

11 MS. GEORGE: Objection, Your Honor. The witness is
12 not on the stand.

13 THE COURT: May I see it.

14 (The Court peruses the document.)

15 THE COURT: What is the nature of the objection?

16 MS. GEORGE: Your Honor, it's a report related to a
17 witness that is not on the stand at this point in time.

18 THE COURT: Okay. But it is an official report.
19 It's an admission against interest. It comes in as an
20 exception to the hearsay rule.

21 MR. FELDMAN: Defense C, it's called.

22 (Defendant's Exhibit C was admitted into evidence.)

23 MR. FELDMAN: Can I have one moment, Judge? Thank
24 you.

25 Can I have one minute and just talk to -- do you

1 mind, Judge? Do you mind if I just take two minutes of your
2 time, Judge?

3 (A pause in the proceedings.)

4 MR. FELDMAN: No you further questions.

5 THE COURT: Thank you very much. You may
6 cross-examine.

7 For the purposes of the record, Lieutenant, would
8 you be kind enough to stand up?

9 (Witness complied.)

10 THE COURT: And you're about five-eleven? How much
11 would you estimate your weight?

12 THE WITNESS: Two hundred.

13 THE COURT: Were you in athletics at West Point?

14 THE WITNESS: Yes.

15 THE COURT: What were they? You may sit down.

16 THE WITNESS: I played rugby as well as I was a
17 swimmer and orienteering. I also competed in the Sandhurst
18 competition, participated in trainings.

19 THE COURT: Thank you. Go ahead.

20 MS. GEORGE: Thank you, Your Honor.

21 CROSS EXAMINATION

22 BY MS. GEORGE:

23 Q Good afternoon, Mr. Choi.

24 A Good afternoon.

25 MR. FELDMAN: Lieutenant Choi, please.

1 BY MS. GEORGE:

2 Q Earlier in your testimony in response to Mr. Feldman's
3 questions, you said that there had come a point in time where
4 you became, excuse me if I don't use the correct word,
5 frustrated with the complacency of just giving speeches in
6 relationship to your, I think you said advocacy or activism?

7 A Yes, there was a time when I was extremely frustrated.

8 Q And what was it about giving speeches that you thought
9 was complacent or ineffective to get your cause out?

10 A Well, I believe that after having given about a hundred
11 speeches at colleges, universities as well as corporate
12 trainings, there are effective speeches and there are
13 ineffective speeches. Some speeches as anybody who has
14 listened to a speech, tend to fall flat or they don't
15 connect.

16 I believe that all of the speeches that were
17 happening, including the speeches made by the President of
18 the United States, fell flat. Because without action, what
19 use are the words that profess some action. In fact, if
20 there are words that represent no actions as if they were, in
21 fact, actions, they are lies.

22 Q So, you felt like you needed to do something to give a
23 greater significance to your cause; is that correct?

24 A Absolutely, yes.

25 Q So, on March 17th, I believe Mr. Pietrangelo testified

1 that you --

2 MR. FELDMAN: Captain Pietrangelo, please.

3 THE COURT: Please, call everybody by their name.

4 BY MS. GEORGE:

5 Q That you met on March 17th, 2010. I think you testified
6 it was maybe three or four days before March 18th that you
7 met. But it was shortly before March 18, 2010, that you and
8 Mr. Pietrangelo --

9 MR. FELDMAN: Captain Pietrangelo, please.

10 THE COURT: All right. They've been established.

11 Ms. George, do you -- please explain something to
12 me: Do you have an objection to referring to these gentlemen
13 as the rank they achieved in the United States army?

14 MS. GEORGE: They're not in the military, Your
15 Honor. Yes, I do.

16 THE COURT: I appreciate that. But I would like to
17 think after I retire, people still will call me judge. So,
18 the title that one captures at one point in his life usually
19 follows him. I call retired judges Judge all the time and so
20 do you. What's the difference?

21 MS. GEORGE: Is the Court ordering me to refer to
22 him as --

23 THE COURT: I would appreciate it if you would.

24 MS. GEORGE: Thank you, Your Honor. I will.

25 THE COURT: You don't have to refer to me as

1 Sergeant Facciola, okay?

2 BY MS. GEORGE:

3 Q Lieutenant Choi?

4 A Yes, Ma'am.

5 Q So you felt like you needed to do something to bring
6 focus to your cause because the speeches were ineffective?

7 A Not only me, but the entire country.

8 Q Okay. And you met with, is it Captain?

9 MR. FELDMAN: Yes.

10 BY MS. GEORGE:

11 Q Captain Pietrangelo shortly before March 18, 2010; is
12 that correct?

13 A Yes. About 12 hours before.

14 Q And did you have the 300 handcuffs at that point in time
15 that the organization had given you?

16 MR. FELDMAN: Objection, there's no testimony about
17 300 handcuffs.

18 THE COURT: \$300 handcuffs.

19 MS. GEORGE: I'm sorry, Your Honor?

20 THE COURT: I thought he said they were \$300
21 handcuffs.

22 MS. GEORGE: Oh, no. I thought he met, he said he
23 had 300 handcuffs.

24 THE COURT: You tell us, Lieutenant. I thought you
25 said you had one pair of handcuffs and it costs \$300. Did I

1 get that wrong?

2 THE WITNESS: The sets of handcuffs cost over \$300.

3 THE COURT: Each set cost \$300?

4 THE WITNESS: About 14 of them would cost more than
5 \$300. We actually chose to purchase more than 13, but not
6 less than 20 for any action from March to April, May and
7 November. So, the cost cumulatively is far greater than
8 \$300.

9 BY MS. GEORGE:

10 Q Okay. So there were somewhere between -- well, no more
11 than 20 handcuffs according to you; is that correct?

12 A For this incident, yes.

13 Q In reference to March 18th?

14 A There were 15.

15 Q Fifteen. And you had those handcuffs when you met with
16 Captain Pietrangelo; is that correct?

17 A Yes.

18 Q Yes. And you and he discussed how to operate the
19 handcuffs; isn't that correct?

20 A We knew how to operate handcuffs from our military
21 training.

22 Q And so, you're familiar with the fact -- let me just ask
23 you this: The handcuffs that you possessed at that point in
24 time shortly before March 18th, were they standard handcuffs?

25 A We purchased them at a leather shop and we got a

1 discounted version. They were not Smith & Wesson, because we
2 felt that the entire country should rise up against
3 injustice. And we wanted anybody, including Kathy Griffin,
4 to join us in our actions.

5 Q And they came with handcuff keys, correct?

6 A Yes.

7 Q And you actually possessed a handcuff key on March 18th,
8 2010; isn't that correct?

9 A As I recall, there was a handcuff key in my left cargo --
10 I'm sorry, right cargo pocket. And one of the park police
11 officers grabbed into that cargo pocket and very nonviolently
12 uncuffed me.

13 Q But prior to being uncuffed, you had someone assist you
14 in handcuffing you to the fence; isn't that correct?

15 A Yes.

16 Q And was that individual at the meeting with you and
17 Captain Pietrangelo?

18 A Yes.

19 Q And you planned for her to specifically handcuff you to
20 the fence; isn't that correct?

21 A I would be remiss if I did not honor the actions that she
22 engaged in. And I'm very proud that she intended to help,
23 especially as Robin McGehee had two small children. And the
24 risk that she took in order to help me with this action
25 actually ended her, landed her in prison for a few hours. I

1 believe the charge was disorderly conduct or disrupting the
2 peace or something like that.

3 THE COURT: Could you answer her question?

4 THE WITNESS: Yes, sir.

5 THE COURT: Would you repeat your question? I don't
6 think you got your answer.

7 BY MS. GEORGE:

8 Q I asked him if you planned for her to handcuff you to the
9 fence?

10 A Yes, Ma'am.

11 Q And you planned that because you thought it would bring
12 more focus to your cause and it would be more dramatic?

13 A I don't believe that whether she did that or you did that
14 it would be more dramatic. I believe the drama comes from
15 the message that we were willing to send directly into the
16 residence of the President of the United States. The drama
17 in itself did not matter, the agents that were used, only the
18 sacrifice that was promulgated to the entire world that
19 watched. The drama, I believe, sprouted from the
20 discrimination that we were trying to visualize. That did
21 not depend on Robin McGehee, it did not depend on Kathy
22 Griffin, it did not depend on my attorney or your supervisor,
23 it only depended on each and every one of us being willing to
24 tell this president that he needed to take action. And we
25 wanted to dramatize it in the greatest way possible.

1 Q Thank you.

2 And so, when you were there, you didn't have any
3 intention of un-handcuffing yourself from the fence because
4 you wanted to bring focus to what you're doing; isn't that
5 correct?

6 A To be honest, my intentions were very confused. When put
7 in the context of whether I would be in violation of a law, I
8 have never broken a law, particularly as an activist. And
9 so, the confusion came from the unknown. I did not intend
10 myself to go to jail per se, but I risked that consequence.

11 And the risking of the consequence, I believe, is
12 just as courageous and should be admired just as much as the
13 action, whether you are incarcerated for life. But the
14 dramatization happens when a courageous person actually does
15 get violently thrown into prison, for it visualizes that each
16 and every one of us have that courage. But the ability to
17 artfully and eloquently or visually dramatize it is the
18 actions necessary of any practitioner of civil existence or
19 nonviolence of a disobedience.

20 Q And, Lieutenant Choi, you risked the consequence of going
21 to prison because that would bring more focus to your cause;
22 isn't that correct?

23 A I believe that when we go to jail, as many dissidents or
24 political activists in many countries do, we take notice.
25 And the reason why we take notice is because it is uncommon

1 for someone to risk jail and the abridgment of freedom so
2 that others can have their just and due respect, dignity,
3 stature, equality and freedom. I was not only willing to go
4 to jail, I was willing to die for my country and I'm still
5 willing to die for my country.

6 Q And you also were willing, after you were arrested, to
7 give a speech in front of the D.C. Superior Court courthouse;
8 isn't that correct, in reference to your arrest on March
9 18th?

10 A I believe in that speech, the most important thing that I
11 said was we will not disappear, we're going to do it again.
12 And that willingness to say that, the willingness after we
13 got released from jail overnight with cockroaches, was meant,
14 yes, to send a message to the souls and the hearts of every
15 young gay kid that they can do it too. If that is inciting
16 anything, so be it. I want every gay child to realize that
17 life is worthwhile, that they have value and that they should
18 have a stirring in their own hearts to stand up and join me.
19 And when we had more people join us the next time, it was, in
20 fact, not a carbon copy, but the corollary to the Greensboro
21 lunch counter sit-ins at the Woolworth department store.

22 Q And so, what you just mentioned, a corollary to the
23 Greensboro sit-ins, you actually talked about that in those
24 meetings between March 18th and April 20th; isn't that
25 correct?

1 A Insensibly.

2 Q Yes. And in those meetings, as Captain Pietrangelo said,
3 you all worked with the handcuffs and put the handcuffs on
4 each other and used the handcuff keys, correct?

5 A Every operation needs its due training. And I believe
6 that an operation of this magnitude should be trained so that
7 we do not dive into a never-ending spiral of violence or
8 manic nightmares of the many countries that we fought in. We
9 didn't want America to become Iraq. We thought that we were
10 free in America and that we enjoyed freedoms to profess our
11 beliefs and our demands for equality. So yes, we practiced
12 that. We practice it every day.

13 And I'm about to train as hard as possible and help
14 others to train. If you would like to train, I would welcome
15 you to come and train with us because I believe that it is
16 the duty of everyone, the First Amendment, not only to have
17 the right to protest our government for redress of
18 grievances, I believe it's a moral responsibility to. For if
19 we remain silent and refuse to train, that would be a moral
20 repudiation of Dr. Martin Luther King, an ethical violation
21 of what it means to be a patriotic American. So, yes, we
22 trained.

23 Q So, are you saying that you believe that the First
24 Amendment of the Constitution gives you the right, if you
25 feel passionate about something, to do whatever you want to

1 do to get that cause out to the people of the United States
2 of America?

3 A There are many things that I want to do. In fact, be
4 somewhere other than here right now. There are many things
5 that --

6 THE COURT: I beg your pardon?

7 THE WITNESS: Your Honor, I don't think that this is
8 the most comfortable situation for anybody.

9 There many things that I want to do. I want to go
10 back into military right now, but I can't because the
11 Constitution right now does not say that I can. But the
12 right to speak on behalf of those who cannot speak for
13 themselves is more than a privilege, it's a moral
14 responsibility. And I take that seriously. I'm not shouting
15 fire, but I do believe that speech should be uninhibited,
16 robust and wide open.

17 BY MS. GEORGE:

18 Q And you agree it has no limits?

19 MR. FELDMAN: Objection, he did not say that.

20 THE COURT: That's all right. I think it's fair.

21 BY MS. GEORGE:

22 Q You agree it has no limits if you feel passionate about
23 what you're saying?

24 A In Iraq we had many people practicing free speech. In
25 fact, I remember the chanting of one group of very violent

1 men, military-aged men, who said Bush, Bush (speaking in
2 foreign language.)

3 Bush, listen well, we all love Saddam Hussein. I
4 believe that certain speech, yes, can incite violence. I
5 believe that hearing the call to prayer from a minaret in
6 some people's minds and opinions, especially if you are
7 Islamaphobic, can incite violence. But what is the intent of
8 that speech? I believe that the call to prayer from a mosque
9 in America does not threaten me, but maybe others do. And if
10 you do, that's your opinion.

11 If you act on that violence, then I believe you are
12 an immoral person. In Iraq, I heard from a Shi'a minaret,
13 called the Hassania.

14 Q Lieutenant Choi, do you think you can answer the question
15 I asked, which is: Do you think your right to free speech
16 has any limits as far as your actions are concerned?

17 MR. FELDMAN: Objection, he was answering it.

18 THE COURT: Please, answer her question if you can.

19 THE WITNESS: Yes. Any limits includes many things.
20 And I wish to address every single possibility. Any limit
21 that would be imposed for any kind of action, I don't know
22 how to answer that specifically, Your Honor. But I can say
23 that from my personal experience, there are some people who
24 believe that any speech is not freely granted by the
25 Constitution.

1 I don't believe that any speech that incites
2 violence with the full force of intention to cause violence,
3 for instance, if I was commanding any of the people in the
4 audience in a military capacity, and they were, by law,
5 obligated to carry out my commands, and they were given
6 weapons by me and I said fire, I think that would be
7 different, far different from the intention of what Oliver
8 Wendell Homes said. So, your interpretation of fire might
9 not be his or mine. In a military uniform, it certainly
10 means a different thing.

11 In this context we use no words that were intended
12 to incite violence on anyone; you, the judge, the park
13 police. But I do believe there was speech that was made by
14 the park police that did incite violence because it commanded
15 people to use violence against us.

16 So, I would say yes, there is some speech that
17 should be curtailed. In fact, I think the speech in question
18 here really is not whether we were saying President Obama,
19 political homophobia, but the speech by the lieutenants and
20 the captains, you know, our honorable park police, that said
21 arrest those people with violent force. That I believe
22 should be curtailed. And anyone who believes in the meaning
23 of our judicial, our justice system, if they believe in our
24 First Amendment, then they should fight tooth and nail to
25 preserve the nonviolent intention of free speech, yes.

1 Q So, you're saying that you actually heard on one of these
2 occasions, March 18th or April 20th or November the 15th, a
3 park police officer said to arrest them with violent force?

4 MR. FELDMAN: Objection, she still doesn't get it.
5 Speech means conduct.

6 BY MS. GEORGE:

7 Q You actually heard that?

8 THE COURT: She has a right to ask the question.

9 MR. FELDMAN: Objection, what does she mean by
10 speech, a legal word or a nonlegal word?

11 THE COURT: She's just following with what he said.
12 The objection is overruled.

13 Go ahead, Ms. George.

14 THE WITNESS: Can you please repeat that question,
15 Ma'am?

16 BY MS. GEORGE:

17 Q You said you heard, heard, park police officers say,
18 arrest these people with violent force. Which date was that,
19 March 18th, April 20th or November 15th?

20 MR. FELDMAN: Objection. He didn't say he heard
21 anything. She doesn't get it.

22 THE COURT: I'm afraid that's what I heard.

23 You indicated that you believe what the park police
24 said was inappropriate, inciting violence. Why did you, if
25 you feel that way, Lieutenant, what did they say?

1 THE WITNESS: There is a very important conjunction,
2 if, that I believe I preceded those words, if, I heard. And
3 if that's not in the record, then I'd like that to be
4 corrected. If I heard, then I believe that speech, yes, must
5 be curtailed.

6 BY MS. GEORGE:

7 Q So you, as far as you're concerned, you didn't hear any
8 park police officers say, arrest Lieutenant Choi with violent
9 force? You've corrected that; is that correct?

10 A I have not heard it. And if you've heard it, I would
11 like that information, yes.

12 Q Thank you.

13 You spent some time in response to Mr. Feldman's
14 questions, commenting that you didn't obstruct traffic.

15 A Because we did not. This government obstructed traffic.
16 There was nobody that was trying to walk along the stoop.
17 And if there was, I believe we would be wholly and
18 considerate to allow them that practice. However, I do not
19 think we blocked any traffic, but I believe that we blocked
20 the view, yes.

21 Q Of the White House?

22 A With a better view. A view of freedom because this is
23 what equality looks like. You know what I was thinking when
24 I was chained up to that fence? I thought what's the meaning
25 of whatever is behind here if you don't have anything chained

1 up to here? What's the meaning of our country if it's not
2 worth fighting for and dying for? You know what I thought in
3 my head as those people were menacing us with the weapons and
4 the apparatus of the state fear mechanisms, I thought that
5 Isaiah The Prophet was correct. And as I stood there, I
6 recalled the verse, from Chapter 54 of that book: "No weapon
7 formed against you shall prosper. And every tongue which
8 rises against you in judgment, you shall condemn. This is
9 the inheritance in the servants of the Lord. And the
10 righteousness comes from the Lord."

11 No weapon, no weapon. You want to point your
12 weapons at me, I have the greatest shield that you could
13 never produce. And that is the shield of truth in the face
14 of violence. And when we were tossed on the ground, and when
15 I believe it was from Laska or maybe Private Laska, who
16 picked me up from my riggers belt, another foot, I believe,
17 and pounded me back down onto the pavement, I can't help but
18 recollect now that Russians and Neo-Nazis did not treat me
19 with that kind of disdain and bias. As I look back on it
20 now, the treatment that I had in Moscow was very tame and
21 humanitarian compared to what I see today still being
22 exercised and used to my friends who are protesting the Tar
23 Sands.

24 So, yes, I believe that when we stand in the front
25 of the White House or whether we are on the White House

1 sidewalk, or whether we are in the White House, which as I
2 understand being on the stoop is technically being in the
3 White House, I'm not a lawyer, but we cannot get a permit for
4 the White House, being in the White House. I've never tried
5 and I don't think I will.

6 But I would tell you this: So long as we are not
7 equal, I intend to train and I intend to go back to the White
8 House fence, so long as there is a grievance that can be
9 remedied by loud speech by this President. And that speech I
10 hope will not be curtailed in any way.

11 Q Lieutenant Choi, you just said that you didn't have a
12 permit?

13 A Yes.

14 Q For the stoop. You used the term stoop; is that correct?

15 A And I will ask if you had any procedural experience on
16 how to get one?

17 Q I will show you what's been marked as Government's
18 Exhibit 36, previously provided to Defense Counsel.

19 MR. FELDMAN: Content to put it into evidence, Your
20 Honor.

21 THE COURT: There being no objection, you may show
22 it to the witness.

23 MS. GEORGE: Thank you.

24 (Government's Exhibit No. 36 was admitted into
25 evidence.)

1 BY MS. GEORGE:

2 Q Lieutenant Choi, I want to show you what's been marked as
3 Government's Exhibit 36. Do you see yourself in that
4 exhibit?

5 A I believe I'm right there (indicating).

6 THE COURT: All right. Indicating a person in the
7 middle there. Okay, thank you.

8 BY MS. GEORGE:

9 Q And you have on black and red; is that correct?

10 A Yes.

11 Q And are you standing on what you refer to as the stoop?

12 A It's the stoop, yes.

13 Q Okay. And you made a reference a second ago that you
14 didn't have a permit for the White House, and you thought the
15 stoop was part of the White House; is that correct?

16 A I believe so. I'm not a lawyer, but from what I
17 understand, a sidewalk, I don't consider anything elevated
18 here. It's certainly on the side, but I would not walk on
19 that. I don't think that that is the sidewalk. And so, when
20 I read the regulation, I see that we were not on the sidewalk
21 and we were technically on the White House property. We were
22 not invited, but we were there.

23 Q And you read the regulation, is that what you just said?

24 A I read it recently.

25 Q Did you read it before you went to the White House fence

1 on November 15th, 2010?

2 A November 15th, 2010, I was familiar by that time with the
3 procedure, so I did not need to even read anything, either
4 the CFR or the USC or the Holy Bible. I knew that by
5 personal experience, two times I was arrested. Two times.
6 And I did --

7 THE COURT: Lieutenant?

8 THE WITNESS: Yes, Your Honor?

9 THE COURT: I've got to ask you to lower your voice.
10 You're going kill our poor court reporter because her ears
11 are directly connected to that microphone. Keep your voice
12 down.

13 THE WITNESS: Okay. I just want to make this point
14 very clear, Your Honor.

15 THE COURT: Okay. But, please, be considerate of
16 the court reporter.

17 THE WITNESS: Yes, sir, I will.

18 THE COURT: Thank you.

19 THE WITNESS: I think that when our experience shows
20 very clearly that Captain Pietrangelo and myself, Lieutenant
21 Choi, were arrested in both March and in April 2010, we were
22 not before a federal court. We did not face you. We did not
23 face a wired plea deal. We did not face six months in
24 prison. We did not face a \$5,000 fine. In fact, because we
25 pled not guilty, the D.C. Municipal Court, where I believe

1 this court case belongs, although it is here and I'm happy to
2 be here, I think that based on personal experience, no, I
3 would not even say the regulations could tell me that I
4 belong here. I would say that the charges, as they were
5 dropped, would be dropped again in November. And any
6 rational human being will realize that if you've done
7 something twice, you have the audacity to do something twice
8 and you don't get punished, there must be a reason why you
9 didn't get punished.

10 And I don't know what that reason was, but a
11 rational human being can deduce that the charges being
12 dropped after a plea of not guilty, unless we pled guilty, it
13 wouldn't be unlawful. So, it is not unlawful to do what we
14 did and I don't know why I'm here right now.

15 BY MS. GEORGE:

16 Q And you did just admit a moment ago that you're not a
17 lawyer; is that correct?

18 A Well, I wasn't a lawyer then and I'm still not a lawyer.

19 Q You discussed in your testimony with Mr. Feldman that you
20 focused on the nonviolence, you and your group members
21 focused on the nonviolence. Do you remember stating that?

22 A Yes, we focused on the nonviolence. And in addition, we
23 signed an agreement that we would remain nonviolent.

24 Q And do you also remember admitting that certain people
25 perceive individuals in uniform as having a propensity for

1 violence? Do you remember admitting that?

2 A Yes, I believe so. If you wore the uniform of this
3 country as a combatant, then it is actually your duty to
4 prepare for that violence that is thrust upon you, or you
5 promulgating that violence in a different country if you are
6 considered in a combat zone.

7 So, yes, I believe that if you wear this uniform and
8 you don't have the ability to exact violent force as we
9 called it, federally-funded lethal force, on anybody else,
10 then you have no business wearing the uniform. Unless that
11 is, you decide to be a chaplain or you join a very specific
12 occupation, military occupational specialties, MOs, that do
13 not require the carrying of a gun. But I do believe that if
14 you are a soldier in this country as military, and if you
15 raise your right hand and you say that you will defend the
16 Constitution against all enemies, foreign and domestic, you
17 should be willing, if not experienced, you should be at least
18 willing to use violence if need be to protect those who
19 cannot protect themselves.

20 Q Showing the witness what has already been entered into
21 evidence as Government's Exhibit 23.

22 Lieutenant Choi, do you remember saying that you, I
23 think you said probably blacked out when you fell from the
24 White House fence ledge? Do you remember saying that?

25 A I remember saying that I do not recall whether I had

1 blacked out. But I have blacked out before in combat
2 situations.

3 Q So, in this position here where you are in Government's
4 Exhibit 23, are you conscious there?

5 MR. FELDMAN: Objection, Judge. There is a lot of
6 law on this. A person who, and I quote Professor Farrow and
7 Richardson on evidence, which is the greatest home in New
8 York. But I think the Court can take or can be persuaded by
9 Professor Farrow and Professor Richardson. An individual is
10 not competent to testify whether he or she blacked out during
11 any large period of time, unless there is some collaboration.

12 THE COURT: Thank you.

13 Well, the point I guess we're trying to get to,
14 Lieutenant, if you can, did you have the sensation of waking
15 up disoriented after these events occurred?

16 THE WITNESS: Yes.

17 THE COURT: Thank you.

18 BY MS. GEORGE:

19 Q And earlier you testified that you could feel someone's
20 body part on you when you were down on the ground. You
21 testified about that earlier. When Mr. Feldman showed you
22 the video, he stopped the video at the point where one of the
23 officers had his knee below your right buttocks area?

24 MR. FELDMAN: Objection, I believe the evidence
25 given by Lieutenant was that his body part was twisted in

1 some way. And you can scour the record for that.

2 THE COURT: He spoke of his left arm.

3 MR. FELDMAN: Right.

4 THE COURT: I think now we're talking about his
5 lower extremities?

6 THE WITNESS: No, see, Your Honor, if I may, I want
7 to clarify that. When I saw the video, I saw that clearly.
8 And I believe it was Laska, who I believe was not subpoenaed
9 by you to be here, I believe that is very clear that he was
10 the one exacting the most violence on me.

11 BY MS. GEORGE:

12 Q Yeah, either one. So, it was Officer Laska putting his
13 body parts on your body parts, correct?

14 A It seems very clear, yes.

15 Q And you said that you had some sensations when that was
16 going on, correct?

17 A To be honest, I think -- yes.

18 Q Okay. Thank you.

19 MR. FELDMAN: He is not finished.

20 THE WITNESS: What it reminded me of was, of that
21 particularly, and I think what caused me to remember that is
22 when I was in jail just a week ago, he was bragging about it
23 to a fellow Tar Sands arrestee. And so, it brings back a lot
24 of, there are certain triggers I think with the combat
25 experience. And forgive me if I'm assuming that you don't

1 have the experience, but, okay.

2 So, let me just explain it to you. Like, certain
3 things make you pissed off. You know, certain things remind
4 you of when others treated you bad. And I think that's what
5 happened. When Sergeant Laska, I believe, or Private Laska,
6 I don't now know, he didn't have a name tag, I believe, in
7 that situation, when he was bragging to Tar Sands activists,
8 saying, do you know Dan Choi? Oh, yeah, I threw him into the
9 ground and I think he blacked out. I don't know why he would
10 say that, but the fact that he said that reminded me of how
11 angry I was that I couldn't feel my index finger. I even
12 tweeted about it. I said I couldn't feel it, but I do have
13 use of my middle one.

14 And I do think that for Mr. Laska or Officer Laska
15 to not be here right now, is another insult. And I'm sorry
16 if I'm being rude right now, but because you don't have that
17 experience, I want to explain how much it gets me angry. It
18 does get me absolutely angry. And I don't think that my
19 yelling here is for drama, I think it comes from my heart.
20 When somebody does that to you, yeah, you hold that for the
21 rest of your life because that's what your country did to you
22 after all the things that you want to do for your country.

23 MR. FELDMAN: This is for the record, this is for
24 the record, and correct me if I'm wrong: Sergeant Laska
25 is --

1 MS. GEORGE: Objection, Your Honor, defense counsel
2 is accommodating --

3 MR. FELDMAN: -- would have came in, but he's on
4 family leave. I was informed by Sergeant Tolson that he's
5 unavailable. I'm trying to be fair here, Judge.

6 THE COURT: Thank you.

7 THE WITNESS: And another thing that I was saying
8 about that is that his family is federally recognized.

9 BY MS. GEORGE:

10 Q Lieutenant Choi, do you see yourself in Government's
11 Exhibit 12?

12 A Yes.

13 Q And in Government's Exhibit 12, your eyes are opened,
14 aren't they?

15 A Well, some people joke because I'm Asian, my eyes usually
16 are smaller than others. But in that, I believe I do have my
17 eyes open.

18 Q Yeah, some people say the same thing about me.

19 And also, in your direct testimony with Mr. Feldman,
20 you stated that you were chanting; isn't that correct?

21 A Yes, I was chanting.

22 Q And you actually led chants on November 15th, 2010?

23 A Yes, I think it was almost like calling cadence in a
24 military formation when we run. And I was very proud to be
25 able to lead some of them. Others led chants and I wanted

1 them to experience that, experience the leadership. Because
2 if I was arrested first, or second or if there were other
3 people that were left behind, they should also be able to
4 lead chants.

5 And so, it's not only a military mindset to develop
6 the other people in the case of one's death or one's
7 discharge, it also is just by need that we should also be
8 very proud and we should, we shouldn't say something if we
9 really believe it, in a whispered tone. Even if you have a
10 quiver in your voice, you should speak up as loud as you can
11 if you really believe that your cause is a righteous one.
12 And so, I told everybody with the full righteousness of the
13 winds behind your back of civil rights and human progress and
14 Jesus and Gandhi and Alice Paul, and all of those people who
15 fought for their dignity, you should yell as loud as
16 possible.

17 You should pierce into the White House windows so
18 that this President cannot ignore gay people, so that he
19 cannot use us as just a clause in a fundraising speech, so
20 that he can say, if you endorse me, then I will endorse your
21 full personhood. You will marry, you will be able to live a
22 fulfilled life. And that's why we were yelling so loudly.
23 And I'll do it again, any time, any place, any manner. I
24 believe that that's not only a right to chant, but it's a
25 responsibility to pierce. To pierce.

1 Q And you had a responsibility to respond to chants as
2 well?

3 A Yes, I believe so. Unless there's an immoral or a
4 unethical, or especially in the military when we were
5 chanting and there would be a lot of Islamaphobic and
6 misogynistical and sometimes, yes, even homophobic and racist
7 chants that are ordered upon the soldiers, I believe that
8 throughout my entire training at West Point, we were ordered
9 to respond back. In fact, they trained it so hard into our
10 hearts that the first summer at West Point we are told you
11 have four responses: Yes, sir or Ma'am, no, sir or Ma'am,
12 sir or Ma'am, I do not understand, and no excuse, sir or
13 Ma'am.

14 And so, I believe that a response is something that
15 is conditioned, yes. But the hard thing is when you see
16 something and you hear something that's immoral, just like an
17 order, if you are given an order that is immoral, unlawful or
18 unethical, it is not your requirement to follow that order.
19 In fact, it is your moral obligation and duty as an officer,
20 a commissioned officer. And this is different from people
21 who enlist. An officer's commission requires that not only
22 will you defend the Constitution and follow the orders above
23 you, but if you get an immoral, unlawful order, it is your
24 duty to do three things:

25 First, you seek clarification. Second, you ask for

1 retraction. And third, you disobey the order because it is
2 an unlawful order. And that is your duty. So, for anybody
3 to say that it is your duty to respond or you're compelled to
4 respond or be loud -- if it is immoral, it is actually not
5 your duty to respond, it is your duty to negate. It is your
6 duty to ask for a rescindment or a retraction. And it is
7 your duty to disobey.

8 Q And that's why you disobeyed the park police's order to
9 get out of the area, because you thought it was unlawful?

10 A In that case, I believe there is a little bit of nuance.

11 Q Tell us about the nuance.

12 A I believe that, yes, any order that curtails freedom of
13 speech is unlawful. My study of linguistics compels me to
14 see that "un" is a negation prefix, and law is, lawful is
15 talking about an adjective of the law, having to do with the
16 law. And I believe that Congress shall make no law abridging
17 free speech. I believe that no law means no law. And that's
18 very similar to what you are promulgating here, that
19 unlawful. Unlawful, yes. Because if anybody is trying to
20 tell me to shut up when my speech happens to be more
21 effective, than you are unconstitutionally violating my
22 rights.

23 So, in this situation as I am not violent, and we've
24 made that very clear, although I have the propensity for
25 violence and perhaps some people think that my words are with

1 a force of violence, I was not violent. And I believed that
2 for somebody to tell me at that moment any kind of order that
3 contradicts that higher law, they are in violation of the
4 Constitution and they should be here in chains and shackles.
5 They should be the ones who stand trial before this Judge,
6 before this Court, and get wired by attorneys like you and
7 undergo all of the oppression and all of the discrimination,
8 as well as the selective prosecution that we have seen here
9 today.

10 I believe that if you continue to do these things,
11 if the park police continues in this way, it denigrates the
12 honor of the country and the purpose of the flag and the
13 symbols. Not only that, but the purpose of our people, why
14 we exist to begin with. They spoke up in such a way that a
15 long train of usurpations must not be ignored. You must
16 speak up loudly. And if you see something that is
17 unconstitutional, as I have said very clearly that I would
18 die to defend, protect this Constitution and of my neighbors,
19 if you see that infraction, it is your duty to call it out,
20 to call it out.

21 Now, you want to make me seem like I'm a person who
22 just disobeys. I believe so. And you want to say that my
23 training in the military of obedience is negated by such
24 boisterousness, perhaps.

25 Q Have you heard me say any of those things that you just

1 stated? Have you heard me say any of those things?

2 A Yes, I have. Yes, I have heard very much so. And we can
3 go back into the record and we can talk about your arguments
4 as to why boisterousness applies or doesn't apply. And I've
5 been insulted by this prosecution in such a way that the
6 Constitution and its violation, not me personally, people
7 have called me fag. People have called me gook. People have
8 called me many things.

9 But when you say that I don't have a right to free
10 speech, that somehow the police telling me that they need --
11 that I need to stop talking, even though people over at Osama
12 bin Laden's death rally, death march, death parade could
13 stand up on the White House lamppost and throw beach balls
14 and maybe even yell at Obama in such ways as piercingly and
15 as boisterously as we do, what's the difference? You said
16 that there's a major difference, and you have not given me an
17 argument as to why my free speech should be curtailed and
18 theirs should be amplified.

19 So, I don't think that --

20 Q So, when the park police --

21 A You're doing it again. I believe, no, I do not, I have
22 to finish this point. Because when you ask that question
23 about the constitutional law on this, that's the reason why
24 we're doing this. An immoral law is no law at all. And
25 that's why I disobeyed don't ask, don't tell, and that is why

1 I'm trying to tell you and sear it into your memory that
2 these unlawful commands are in the front to the Constitution
3 as a whole, on its face.

4 MS. GEORGE: Thank you, Lieutenant Choi.

5 THE WITNESS: You're welcome.

6 REDIRECT EXAMINATION

7 BY MR. FELDMAN:

8 Q Would you agree, Lieutenant, that if you're in a crowded
9 movie theater and somebody -- you would have screamed fire,
10 like meaning fire, like the curtain is on fire, that is not
11 protected speech?

12 MS. GEORGE: Objection, calls for a legal
13 conclusion.

14 THE COURT: No, I think it follows up on what you
15 said.

16 THE WITNESS: That is not protected speech. I would
17 not protect that speech.

18 BY MR. FELDMAN:

19 Q Thank you.

20 Are you aware, sir, or have you studied or have you
21 been instructed perhaps by the captain that the concept of
22 speech also involves conduct?

23 A Yes.

24 Q When you said that the police told other police to arrest
25 you violently, did you infer or relate that to their conduct

1 as being speech in terms of the way they acted? If you
2 understand the question.

3 THE COURT: I'm sorry, I'm having difficulty with
4 it.

5 MR. FELDMAN: Okay. I wish I were as articulate as
6 some of my clients.

7 BY MR. FELDMAN:

8 Q Do you understand the concept that, promulgated by the
9 Supreme Court of the United States that some protected speech
10 is conduct or the conduct is speech?

11 A Yes.

12 Q At any time that you were advised the third time, the
13 third warning in any of your protests, that you must leave or
14 be arrested, did any agent of the United States Park Police
15 offer to cut the handcuffs away and give you, or give you an
16 opportunity to do so?

17 A On the event in November --

18 Q No, I'm not talking about November. The other ones are
19 just really --

20 A Okay.

21 Q I mean, they're relevant. But I'm talking about the
22 instant case, which is November. On November 15th, after you
23 were advised the third time that you must leave or be
24 arrested by Officer LaChance, did any agent of the United
25 States Park Office or police offer to cut the handcuffs away

1 and/or give you an opportunity to do so?

2 A No, they never gave me a chance.

3 Q I'm going to ask that you answer these questions yes or
4 no. If you don't mind, sir.

5 A I understand.

6 Q Okay. Did any agent tell you that you needed a permit on
7 November 15th, yes or no? I know this is hard. You can say
8 a few sentences, but --

9 MS. GEORGE: Objection, Your Honor. Mr. Feldman is
10 trying to limit his response.

11 MR. FELDMAN: Then go on.

12 THE COURT: Let's just see. The question is: At
13 any point from your arrival to your departure, did an agent
14 of the United States advise you that your behavior
15 necessitated a permit?

16 THE WITNESS: No.

17 THE COURT: Thank you. That was not part of the,
18 what the Lieutenant read, did he? He didn't say anything
19 about permits did he, that you heard?

20 THE WITNESS: No, I don't think.

21 THE COURT: Answered yes on no?

22 THE WITNESS: No.

23 THE COURT: That's what he answered.

24 BY MR. FELDMAN:

25 Q Let me just very briefly, okay. You said basically, all

1 you heard was the word sidewalk?

2 A That was made very clear. I also heard words like
3 leaning a sign, but that was it. And honestly what happens
4 is that in those situations, I'm not thinking about -- to
5 tell you the truth, in this court case, I've sort of been in
6 and out of consciousness because of the legal terms that are
7 going on. I can memorize, you know, I can memorize a lot of
8 things in Arabic and in English and inspirational quotes, but
9 I don't know, I don't know why I would have to memorize
10 something like that. And, I mean, it's like when you're on
11 radio traffic, they come in every once in a while. And
12 there's like some static that goes on.

13 Q You mean those old fashion radios you use to listen to?

14 A Yes. It's like you want to try and focus on the message,
15 you know, everything from the call sign to over or out. And
16 when there's some background noise that's going on, you try
17 hard to kind of like ignore that.

18 Q I'm informed by my staff that you must answer the
19 question yes or no. I'll repeat the question.

20 A I forgot already.

21 Q Did every -- oh, all right. Let me give you the next
22 question.

23 Did any agent tell you that you needed a permit, yes
24 or no?

25 A No.

1 Q Did any agent ever tell you that you had to leave because
2 you were blocking someone's view, yes or no?

3 A No.

4 Q Did any agent ever tell you that you had to move because
5 there was a legal requirement mandating that you move, yes or
6 no?

7 A Say that again, a legal requirement?

8 Q Yes, mandating that you move?

9 I'll really withdraw that question. Don't answer
10 that one.

11 Prior to your arrest, this is my last question, I
12 promise.

13 MS. GEORGE: On November 15th?

14 MR. FELDMAN: Yes. It's all November.

15 BY MR. FELDMAN:

16 Q Prior to your arrest on November 15th, were you ever
17 advised by any agent of what regulation, rule, statute or
18 ordinance you were violating?

19 A No.

20 MR. FELDMAN: No further questions.

21 THE COURT: Thank you so much, Lieutenant. You may
22 stand down.

23 (Witness excused.)

24 THE COURT: Tomorrow's schedule shows a detention
25 hearing at 9:30. I have no idea whether it will go forth,

1 But we should be here at 9:30 as we were right after lunch,
2 and then we'll see if we can finish up.

3 MS. GEORGE: Your Honor, Mr. Myers asked me to ask
4 the Court if the Court is requiring him to return tomorrow?
5 He was here all day today.

6 THE COURT: I'm sorry, I apologize. I thought we
7 would get to him. But are you going to get to Myers tomorrow
8 morning? Is he your first witness?

9 MR. FELDMAN: I was planning on calling Mr. Hodge,
10 who has been here for two days, or three days.

11 THE COURT: All right. How about -- well, can we do
12 this with Mr. Myers: Could we ask him to be here at 10:30?

13 MR. FELDMAN: I think I should finish with Mr. Hodge
14 by 10:30, yes, Your Honor.

15 THE COURT: All right. Thank you. Mr. Myers, would
16 you put Mr. Myers on if he's here at 10:30?

17 MR. FELDMAN: Guaranteed. If you let me break
18 Hodge -- if Hodge is not done, I have no problem if you have
19 no problem making me break.

20 THE COURT: That's fine. All right. Please tell
21 Mr. Myers to be here at 10:30.

22 MS. GEORGE: I will, Your Honor.

23 THE COURT: Thank you.

24 (Proceedings adjourned at 5:10 P.M.)
25

C O N T E N T S

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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(Defendant)

JAMES F. PIETRANGELO

By Mr. Feldman

18

By Ms. George

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DANIEL CHOI

By Mr. Feldman

26

98

By Ms. George

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1 CERTIFICATE OF REPORTER

2 I, Lisa Walker Griffith, certify that the foregoing
3 is a correct transcript from the record of proceedings in the
4 above-entitled matter.

5
6
7
8
9 _____
10 Lisa Walker Griffith, RPR

_____ Date

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